

1 11 NCAC 23A .0104 is amended as published in 34:14 NCR 1290 as follows:

2  
3 **11 NCAC 23A .0104      EMPLOYER'S REQUIREMENT TO FILE ~~A FORM 19~~ FIRST REPORT OF**  
4 **INJURY**

5 (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  
6 Occupational Disease to the Industrial Commission. The Form 19 shall be used when the injury causes the employee  
7 to be absent from work for more than one day or when the charges for medical compensation exceed four thousand  
8 dollars (\$4,000). The Form 19 shall be filed with the Commission in accordance with Rule .0108(d) of this Section.

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

13  
14 *History Note: Authority G.S. 97-80(a); 97-92;*

15 *Eff. March 15, 1995;*

16 *Amended Eff. November 1, 2014; January 1, 2011; August 1, 2006; March 1, 2001; June 1, 2000;*

17 *Recodified from 04 NCAC 10A .0104 Eff. June 1, 2018;*

18 *Amended Eff. December 1, 2020.*  
19  
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## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23A .0108

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

**NOTE WELL:** *This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In (c), line 21, does your regulated public know what is "necessary to effectuate filing"?*

*In (f), Pages 2 and 3, what is "temporary" here? Is this determined by the by individual applying for the waiver?*

*In (g), Page 3, line 5, what are "applicable statutes"? Does your regulated public know?*

*Why do you need the sentence on lines 5-7? Paragraph (a), lines 9-12 already states this. Why are you restating it here?*

*Please confirm that you intend for the effective date to be February 1, 2021. Please note the same for all other rules proposed for review with that effective date.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020

11 NCAC 23A .0108 is amended as published in 34:20 NCR 1850-51 as follows:

**11 NCAC 23A .0108 ELECTRONIC FILINGS WITH THE COMMISSION; HOW TO FILE**

(a) All documents filed with the Commission in workers' compensation cases shall be submitted electronically in accordance with this Rule. Any document transmitted to the Commission in a manner not in accordance with this Rule shall not be accepted for filing. Any document filed with the Commission that requires contemporaneous payment of a processing fee pursuant to Rule 11 NCAC 23E .0203 shall not be deemed filed until the fee has been paid in full. The electronic filing requirements of this Rule shall not apply to ~~employees, medical providers, employees~~ or non-insured employers without legal representation. ~~Employees, medical providers, Employees~~ and non-insured employers without legal representation may file all documents with the Commission via the Commission's Electronic Document Filing Portal ("~~EDFP~~"), ("~~EDFP~~") or by sending the documents to the Clerk of the Industrial Commission via electronic mail, mail (dockets@ic.nc.gov), facsimile, U.S. Mail, private courier service, or hand delivery.

(b) Except as set forth in Paragraphs (d) and (e) of this Rule, all documents required to be submitted electronically to the Commission shall be filed ~~transmitted to the Commission~~ via EDPF. Information regarding how to ~~register for and~~ use EDPF is available at <http://www.ic.nc.gov/training.html>. In the event EDPF is inoperable, all documents required to be filed via EDPF shall be transmitted to the Commission via electronic mail to [edfp@ic.nc.gov](mailto:edfp@ic.nc.gov). Documents required to be filed via EDPF that are sent to the Commission via electronic mail when EDPF is operable shall not be accepted for filing.

(c) Transcripts of depositions shall be filed with the Commission pursuant to this Rule by the court reporting service. Transcripts filed with the Commission shall have only one page of text per page and shall include all exhibits. The parties shall provide the Commission's court reporting service with the information necessary to effectuate filing of the deposition transcripts and attached exhibits via EDPF. If an exhibit to a deposition is in a form that makes submission of an electronic copy impracticable, counsel for the party offering the exhibit shall make arrangements with the Commission to facilitate the submission of the exhibit. Condensed transcripts and paper copies of deposition transcripts shall not be accepted for filing.

(d) A Form 19 shall be filed as the first report of injury (FROI) via electronic data interchange (EDI), except in claims involving non-insured ~~employers~~ employers, ~~or~~ in claims for lung disease, in claims with multiple employers or multiple carriers, or in claims with six-character IC file numbers, in which case the Form 19 shall be filed electronically via EDPF to [forms@ic.nc.gov](mailto:forms@ic.nc.gov), by mail to 1235 Mail Service Center, Raleigh, North Carolina 27699-1235, or as otherwise permitted pursuant to Paragraph (a) of this Rule. Information regarding how to register for and use EDI is available at [www.ncicedi.info](http://www.ncicedi.info).

~~(e) The workers' compensation forms and documents listed in Table 1 shall not be required to be transmitted via EDPF provided all applicable qualifying conditions are met.~~

Table 1: Forms and documents exempt from EDPF filing requirements and how to file them:

DOCUMENT	QUALIFYING CONDITION(S)	HOW TO FILE
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Form 18	No IC file number has been assigned	Electronically to forms@ic.nc.gov, by mail to 1235 Mail Service Center, Raleigh, North Carolina 27699-1235, or as otherwise permitted pursuant to Paragraph (a) of this Rule
Form 18B	Always exempt from EDFP filing requirement	Electronically to forms@ic.nc.gov, by mail to 1235 Mail Service Center, Raleigh, North Carolina 27699-1235, or as otherwise permitted pursuant to Paragraph (a) of this Rule
Form 51	Always exempt from EDFP filing requirement	Electronically to forms@ic.nc.gov
Plaintiffs Attorney Representation Letter	No IC file number has been assigned	Electronically to forms@ic.nc.gov
Documents to be filed with the Commission's Compliance & Fraud Investigative Division	Always exempt from EDFP filing requirement	Electronically to fraudecomplaints@ic.nc.gov or as otherwise permitted pursuant to Paragraph (a) of this Rule
Documents to be filed with the Commission's Medical Fees Section	Always exempt from EDFP filing requirement	Electronically to medicalfees@ic.nc.gov or as otherwise permitted pursuant to Paragraph (a) of this Rule
Documents to be filed with the Commission's Safety Education & Training Section	Always exempt from EDFP filing requirement	Electronically to safety@ic.nc.gov or as otherwise permitted pursuant to Paragraph (a) of this Rule
A Form 25N to be filed with the Commission's Medical Rehabilitation Nurses Section	No IC file number has been assigned	Electronically to 25N@ic.nc.gov
Rehabilitation referrals to be filed with the Commission's Medical Rehabilitation Nurses Section	No IC file number has been assigned	Electronically to rehab.referrals@ic.nc.gov

(e) Documents to be filed with the Criminal Investigations & Employee Classification Division regarding fraud complaints shall be submitted electronically to fraudecomplaints@ic.nc.gov. Documents to be filed with the Criminal Investigations & Employee Classification Division regarding employee misclassification shall be submitted electronically to emp.classification@ic.nc.gov. Safety rules to be filed with the Commission under 11 NCAC 23A .0411 shall be submitted electronically to safety@ic.nc.gov.

(f) A self-insured employer, carrier or guaranty association, third-party administrator, court reporting service, medical provider, or law firm may apply to the Commission for an emergency temporary waiver of the electronic filing requirement set forth in Paragraph (a) of this Rule when it is unable to comply because of temporary technical problems or lack of electronic mail or internet access. The request for an emergency temporary waiver shall be

1 included with any filing submitted via facsimile, U.S. Mail, or hand delivery due to such temporary technical or access  
2 issues.

3 (g) A Notice of Appeal to the North Carolina Court of Appeals shall be accepted for filing by the Commission via  
4 ~~EDFP or U.S. Mail.~~ EDFP, U.S. Mail, hand delivery, or any other means allowed by the Rules of Appellate Procedure  
5 or applicable statutes governing appeals from the General Courts of Justice. Notwithstanding the foregoing, employees  
6 and non-insured employers without legal representation may file all documents with the Commission as provided in  
7 Paragraph (a) of this Rule.

8  
9 *History Note: Authority G.S. 97-80; 97-81; 97-86;*  
10 *Eff. February 1, 2016;*  
11 *Amended Eff. February 1, 2017;*  
12 *Recodified from 04 NCAC 10A .0108 Eff. June 1, 2018;*  
13 *Amended Eff. December 1, 2018;*  
14 *Amended Eff. February 1, 2021.*

1 11 NCAC 23A .0109 is amended as published in 34:20 NCR 1852 as follows:

2  
3 **11 NCAC 23A .0109 CONTACT INFORMATION**

4 (a) "Contact information" for purposes of this Rule shall include telephone number, facsimile number, email address,  
5 and mailing address.

6 (b) All attorneys of record with matters before the Commission shall inform the Commission ~~in writing~~ of any change  
7 in the attorney's contact information via ~~email to dockets@ic.nc.gov, the Commission's Electronic Document Filing~~  
8 Portal ("EDFP").

9 (c) All unrepresented persons or entities with matters before the Commission shall inform the Commission upon any  
10 change to their contact information in the following manner:

11 (1) All employees who are not represented by counsel shall inform the Commission of any change in  
12 contact information by filing a written notice via EDFP, the Commission's Electronic Document  
13 Filing Portal ("EDFP"), email to forms@ic.nc.gov, facsimile, U.S. Mail, private courier service, or  
14 hand delivery.

15 (2) All non-insured employers that are not represented by counsel shall inform the Commission of any  
16 change in contact information by filing a written notice via EDPF, email to dockets@ic.nc.gov,  
17 facsimile, U.S. Mail, private courier service, or hand delivery.

18  
19 *History Note: Authority G.S. 97-80;*  
20 *Eff. January 1, 2019;*  
21 *Amended Eff. February 1, 2021.*

1 11 NCAC 23A .0302 is amended as published in 34:20 NCR 1852 as follows:

2  
3 **11 NCAC 23A .0302 REQUIRED CONTACT INFORMATION FROM CARRIERS**

4 All insurance carriers, third party administrators, and self-insured employers shall designate a primary contact person  
5 for workers' compensation issues in North Carolina and shall maintain and provide annually on July 1 to the Director  
6 of Claims Administration of the Commission via the Commission's Electronic Document Filing Portal ("EDFP") email  
7 at rule302@ic.nc.gov, the primary contact person's current contact information, including direct telephone and  
8 facsimile numbers, mailing addresses, and email addresses. Contact information shall be updated within 30 days of  
9 any change.

10  
11 *History Note: Authority G.S. 97-80(a); 97-94;*

12 *Eff. January 1, 2011;*

13 *Amended Eff. November 1, 2014;*

14 *Recodified from 04 NCAC 10A .0302 Eff. June 1, 2018;*

15 *Amended Eff. December 1, 2018;*

16 *Amended Eff. February 1, 2021.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23A .0408

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*On the Submission for Permanent Rule form, Box 8, you state no fiscal note was required. However, in the January 15, 2020 Register, you stated this Rule was part of a combined analysis that affected funds and was approved by OSBM. Please confirm the correct boxes are checked here.*

*In (a), you refer to filing a Form 33 request for hearing pursuant to Rule 23A .0602 but then don't address how that is handled within this Rule. Instead, the rest of the Rule now exclusively speaks to written requests and Form 18M. Is that process going to be governed by Rule 23A .0602?*

*Do you still need Paragraph (d)? Are you still administering claims under G.S. 97-25.1 from over 26 years ago?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020



1 11 NCAC 23A .0408 is amended as published in 34:14 NCR 1290 as follows:

2  
3 **11 NCAC 23A .0408 APPLICATION FOR OR STIPULATION TO ADDITIONAL MEDICAL**  
4 **COMPENSATION**

5 (a) An employee may file an application for additional medical compensation with the Office of the Executive  
6 Secretary for an order for payment of additional medical compensation within two years of the date of the last payment  
7 of medical or indemnity compensation, whichever ~~shall last occur~~, occurs last. An application may be made on a Form  
8 18M Employee's Application for Additional Medical Compensation, Compensation or by written ~~request~~, request. In  
9 the alternative, an employee may file an application for additional medical compensation ~~or~~ by filing a Form 33  
10 Request that Claim be Assigned for Hearing with the ~~Commission~~, Commission pursuant to Rule .0602 of this  
11 Subchapter.

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

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

21 (d) This Rule applies to injuries occurring on or after July 5, 1994.

22  
23 *History Note: Authority G.S. 97-25.1; 97-80(a);*

24 *Eff. March 15, 1995;*

25 *Amended Eff. November 1, 2014; June 1, 2000;*

26 *Recodified from 04 NCAC 10A .0408 Eff. June 1, 2018;*

27 *Amended Eff. December 1, 2020.*  
28  
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## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23A .0409

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*On the Submission for Permanent Rule form, Box 8, you state no fiscal note was required. However, in the January 15, 2020 Register, you stated this Rule was part of a combined analysis that affected funds and was approved by OSBM. Please confirm the correct boxes are checked here.*

*In (e)(7), line 34, and (f)(11), Page 2, line 16, is this intended to capture the "burial expenses" provided for in G.S. 97-38?*

*I am simply inquiring – I note that the requirements in (f)(9) and (10) are not required for the filing in (e). Is this because the Commission will need the records to make the determination required for the payment?*

*In (j), line 32, what is "good cause shown"? Will this be determined by the Commission based upon its statutory discretion as a court?*

*I suggest ending the sentence after "good cause shown." Then begin a new sentence, "The benefits shall for the exclusive..."*

*On lines 32 and 36, how is this determination of "for the exclusive use and benefit" of be determined?*

*In (m), Page 3, line 5, I am only asking – do you wish to provide the full name of the form, as you do elsewhere in this Rule?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020

11 NCAC 23A .0409 is amended as published in 34:14 NCR 1291-92 as follows:

**11 NCAC 23A .0409 CLAIMS FOR DEATH BENEFITS**

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

(b) An employer, carrier, or administrator shall ~~make a good faith effort to discover~~ conduct an investigation to determine the names and addresses of decedent's potential beneficiaries under G.S. 97-38 and identify them on the Form 29 Supplemental Report for Fatal Accident. Accidents. The Form 29 Supplemental Report for Fatal Accidents shall be filed with the Commission within 45 days of notification of a death or allegation of death resulting from an injury or occupational disease arising out of and in the course of employment.

(c) If the employer, carrier, or administrator disputes that an employee's death is compensable or denies it has liability for the claim, the employer, carrier, or administrator shall notify the Commission on a Form 61 Denial of Workers' Compensation Claim. When the employer, carrier, or administrator denies liability for a claim involving an employee's death, the employer, carrier, or administrator shall send the form to all known potential beneficiaries, their attorneys of record, if any, all health care providers that have submitted bills to the employer, carrier, or administrator, and the Commission.

(d) If the employer, carrier, or administrator accepts liability for a claim involving an employee's death and there are no issues necessitating a hearing for determination of beneficiaries or their respective rights, the parties shall submit either a Form 30 Agreement for Compensation for Death as set forth in Rule .0501 of this Subchapter or a proposed Opinion and Award.

(e) If the parties submit a Form 30 Agreement for Compensation for Death, the agreement shall be filed in accordance with Rule .0108 of this Subchapter with the following:

- (1) a stipulation as to average weekly wage;
- (2) any affidavits regarding dependents;
- (3) the employee's death certificate;
- (4) a Form 29 Supplemental Report for Fatal Accidents;
- (5) a Form 42 Application for Appointment of Guardian ad Litem, if any beneficiary is a minor or incompetent;
- (6) proof of beneficiary status, such as marriage license, birth certificate, or divorce decree;
- (7) a funeral bill or stipulation as to payment of the funeral benefit;
- (8) a Form 30D Award Approving Agreement for Compensation for Death; and
- (9) an affidavit or itemized statement in support of an award of attorney's fees if an attorney is seeking fees for representation of one or more beneficiaries.

1 (f) If the parties seek a written Opinion and Award from the Commission regarding the payment of death benefits in  
2 lieu of submitting a Form 30 Agreement for Compensation for Death, the parties shall file, in accordance with Rule  
3 .0108 of this Subchapter, a proposed Opinion and Award with the following:

- 4 (1) a stipulation regarding all jurisdictional matters;
- 5 (2) the decedent's name, social security number, employer, insurance carrier or servicing agent, and the  
6 date of the injury giving rise to this claim;
- 7 (3) a stipulation as to average weekly wage;
- 8 (4) any affidavits regarding dependents;
- 9 (5) the employee's death certificate;
- 10 (6) a Form 29 Supplemental Report for Fatal Accidents;
- 11 (7) a Form 42 Application for Appointment of Guardian ad Litem, if any beneficiary is a minor or  
12 incompetent;
- 13 (8) proof of beneficiary status, such as marriage license, birth certificate, or divorce decree;
- 14 (9) medical records, if any;
- 15 (10) a statement of payment of medical expenses incurred, if any;
- 16 (11) a funeral bill or stipulation as to payment of the funeral benefit; and
- 17 (12) an affidavit or itemized statement in support of an award of attorney's fees if an attorney is seeking  
18 fees for representation of one or more beneficiaries.

19 (g) If an issue exists as to whether a person is a beneficiary pursuant to G.S. 97-38 or if any other disputed issue exists  
20 in an accepted claim, the employer, carrier, administrator, potential beneficiary, or any person asserting a claim for  
21 benefits may request a hearing by filing a Form 33 Request that Claim be Assigned for Hearing in accordance with  
22 Rule .0602 of this Subchapter.

23 (h) Upon approval by the Commission of a Form 30 Agreement for Compensation for Death or upon the issuance of  
24 a final order of the Commission directing payment of death benefits pursuant to G.S. 97-38, payment shall be made  
25 by the employer, carrier, or administrator directly to the beneficiaries, with the following exceptions:

- 26 (1) any applicable award of attorney's fees shall be paid directly to the attorney; and
- 27 (2) benefits due to a minor or incompetent.

28 (i) In all cases involving minors and incompetent persons who are potential beneficiaries, a guardian ad litem shall  
29 be appointed pursuant to Rule .0604 of this Subchapter.

30 (j) Any benefits due to a minor pursuant to G.S. 97-38 shall be paid directly to the minor's parent, legal guardian, or  
31 legal custodian, if the minor remains in the physical custody of such person, or another person if ordered by the  
32 Commission for good cause shown, for the exclusive use and benefit of the minor. When a beneficiary reaches the  
33 age of 18, any remaining benefits shall be paid directly to the beneficiary.

34 (k) The Commission shall order that the benefits for an incompetent beneficiary shall be paid to the person or entity  
35 authorized to receive funds on behalf of the beneficiary pursuant to a federal or state court order, or to the Clerk of  
36 Court in the county in which the beneficiary resides, for the beneficiary's exclusive use and benefit.

1 (l) Upon a change in circumstances, any interested party may request that the Commission amend the terms of any  
2 award with respect to a minor or incompetent person to direct payment to another party on behalf of the minor or  
3 incompetent person.

4 (m) In the case of benefits commuted to present value, only those sums that have not accrued at the time of the  
5 approval of a Form 30 or entry of a final order of the Commission directing payment of death benefits pursuant to  
6 G.S. 97-38 are subject to commutation pursuant to Rule .0406 of this Subchapter.

7 ~~(e) In all cases involving minors or incompetents who are potential beneficiaries, a guardian ad litem shall be~~  
8 ~~appointed pursuant to Rule .0604 of this Subchapter.~~

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

12 ~~(e) If the employer, carrier, or administrator accepts liability for a claim involving an employee's death and there are~~  
13 ~~no issues necessitating a hearing for determination of beneficiaries or their respective rights, the parties shall submit~~  
14 ~~an agreement executed by all interested parties or their representatives to the Commission. All agreements shall be~~  
15 ~~submitted to the Commission on a Form 30 Agreement for Compensation for Death as set forth in Rule .0501 of this~~  
16 ~~Subchapter.~~

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

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

23 ~~(h) Any potential beneficiary, the employer, the carrier, or the administrator may request a hearing as provided in~~  
24 ~~Rule .0602 of this Subchapter.~~

25 ~~(i) Upon approval by the Commission of a Form 30 Agreement for Compensation for Death, or the issuance of a final~~  
26 ~~order of the Commission directing payment of death benefits pursuant to G.S. 97-38, payment shall be made by the~~  
27 ~~employer, carrier, or administrator directly to the beneficiaries, with the following exceptions:~~

28 (1) any applicable award of attorney fees shall be paid directly to the attorney; and

29 (2) benefits due to a minor or incompetent.

30 ~~(j) Any benefits due to a minor pursuant to G.S. 97-38 shall be paid directly to the parent as natural guardian of the~~  
31 ~~minor for the use and benefit of the minor if the minor remains in the physical custody of the parent as natural guardian.~~  
32 ~~If the minor is not in the physical custody of the parent as natural guardian, payment shall be made through some other~~  
33 ~~person appointed by a court of competent jurisdiction or to such other person under such terms as the Commission~~  
34 ~~finds is in the best interests of the parties. When a beneficiary reaches the age of 18, any remaining benefits shall be~~  
35 ~~paid directly to the beneficiary.~~

36 ~~(k) In order to protect the interests of a beneficiary who is incompetent, the Commission shall order that benefits be~~  
37 ~~paid to the beneficiary's appointed general guardian for the beneficiary's exclusive use and benefit, or to the Clerk of~~

1 ~~Court in the county in which the beneficiary resides for the beneficiary's exclusive use and benefit as determined by~~  
2 ~~the Clerk of Court.~~

3 ~~(l) Upon a change in circumstances, any interested party may request that the Commission amend the terms of any~~  
4 ~~award with respect to a minor or incompetent to direct payment to another party on behalf of the minor or incompetent.~~

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

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

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

12 (1) a stipulation regarding all jurisdictional matters;

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

15 (3) a Form 22 Statement of Days Worked or Earnings of Injured Employee or stipulation as to average  
16 weekly wage;

17 (4) any affidavits regarding dependents;

18 (5) the death certificate;

19 (6) a Form 29 Supplemental Report for Fatal Accidents;

20 (7) Guardian ad litem forms, if any beneficiary is a minor or incompetent;

21 (8) proof of beneficiary status, such as marriage license, birth certificate, or divorce decree;

22 (9) medical records, if any;

23 (10) a statement of payment of medical expenses incurred, if any; and

24 (11) a funeral bill or stipulation as to payment of the funeral benefit.

25 ~~(p) Any attorney seeking fees for representation in an uncontested claim shall file an affidavit or itemized statement~~  
26 ~~in support of an award of attorney's fees.~~

27  
28 *History Note: Authority G.S. 97-38; 97-39; 97-80(a);*

29 *Eff. June 1, 2000;*

30 *Amended Eff. November 1, 2014; January 2, 2011;*

31 *Recodified from 04 NCAC 10A .0409 Eff. June 1, 2018;*

32 *Amended Eff. December 1, 2020.*  
33  
34

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23A .0501

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*On the Submission for Permanent Rule form, Box 8, you state no fiscal note was required. However, in the January 15, 2020 Register, you stated this Rule was part of a combined analysis that affected funds and was approved by OSBM. Please confirm the correct boxes are checked here.*

*In (b), line 9, what are "relevant" records here? Does your regulated public know?*

*On line 11, what is "known to exist in the case"? Known by whom? The parties?*

*On line 12, will this be what is necessary for the Commission to make this determination?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020

1 11 NCAC 23A .0501 is amended as published in 34:14 NCR 1292-93 as follows:

2  
3 **11 NCAC 23A .0501 AGREEMENTS FOR PROMPT PAYMENT OF COMPENSATION**

4 (a) To facilitate the payment of compensation within the time prescribed in G.S. 97-18, the Commission shall accept  
5 memoranda of ~~agreements~~ agreement on Commission forms. These forms include the Form 21 Agreement for  
6 Compensation for Disability, Form 26 Supplemental Agreement as to Payment of Compensation, Form 26A  
7 Employer's Admission of Employee's Right to Permanent Partial Disability, Form 26D Agreement for Payment of  
8 Unpaid Compensation in Unrelated Death Cases, and Form 30 Agreement for Compensation for Death.

9 (b) No agreement for permanent disability shall be approved until the relevant medical and vocational ~~records~~ records,  
10 including a job description if the employee has permanent work restrictions and has returned to work for the employer  
11 of injury, known to exist in the case have been filed with the Commission. When requested by the Commission, the  
12 parties shall file any additional documentation necessary to determine whether the employee is receiving the disability  
13 compensation to which he or she is entitled and that an employee qualifying for disability compensation under G.S.  
14 97-29 or G.S. 97-30, and G.S. 97-31 has the benefit of the more favorable remedy.

15 (c) ~~All memoranda of agreements shall be submitted to the Commission. After the employer, carrier, or administrator~~  
16 ~~has received a memorandum of agreement that has been signed by the employee and the employee's attorney of record,~~  
17 ~~if any, the employer, carrier, or administrator shall submit the memorandum of agreement within 20 days to the~~  
18 ~~Commission for review and approval.~~ Agreements conforming to the provisions of the Workers' Compensation Act  
19 shall be approved by the Commission and a copy returned to the employer, carrier, or administrator, and a copy sent  
20 to the employee. ~~employee, unless amended by an award, in which event the Commission shall return the award with~~  
21 ~~the agreement.~~

22 (d) ~~The~~ Upon submission to the Commission of the executed agreement, the employer, carrier, administrator, or the  
23 attorney of record, if any, shall provide the employee, beneficiary, or attorney of record, employee's attorney of record  
24 or the employee, if any, unrepresented, a copy of a Form 21 Agreement for Compensation for Disability, a Form 26  
25 Supplemental Agreement as to Payment of Compensation, a Form 26D Agreement for Payment of Unpaid  
26 Compensation in Unrelated Death Cases, and a Form 30 Agreement for Compensation for Death, when the employee  
27 or appropriate beneficiary signs the forms: with a copy of the executed agreement that was submitted to the  
28 Commission.

29 (e) All memoranda of ~~agreements~~ agreement for cases that are calendared for hearing before a Commissioner or  
30 Deputy Commissioner shall be ~~sent directly~~ addressed to that Commissioner or Deputy ~~Commissioner.~~ Commissioner,  
31 and filed in accordance with Rule .0108 of this Subchapter. Before a case is calendared, or once a case has been  
32 continued or removed, or after the filing of an Opinion and Award, all memoranda of ~~agreements~~ agreement shall be  
33 ~~directed~~ addressed to the Claims Section of the ~~Commission.~~ Commission, and filed in accordance with Rule .0108  
34 of this Subchapter.

35 (f) ~~After the employer, carrier, or administrator has received a memorandum of agreement that has been signed by~~  
36 ~~the employee and the employee's attorney of record, if any, the employer, carrier, or administrator has 20 days within~~



1 ~~which to submit the memorandum of agreement to the Commission for review and approval or within which to show~~  
2 ~~cause for not submitting the memorandum of agreement signed only by the employee.~~

3  
4 *History Note: Authority G.S. 97-18; 97-80(a); 97-82;*  
5 *Eff. January 1, 1990;*  
6 *Amended Eff. November 1, 2014; August 1, 2006;*  
7 *Recodified from 04 NCAC 10A .0501 Eff. June 1, 2018;*  
8 *Amended Eff. December 1, 2020.*  
9  
10

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23A .0903

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*On the Submission for Permanent Rule form, Box 8, should the box "This Rule was part of a combined analysis" also be checked?*

*In (a), line 6, what is "reasonably necessary"? Who determines this? The self-insured employer, carrier, or third-party administrator?*

*In (b), line 10, please insert a comma after "certified mail" to be consistent with the term on line 7.*

*In (c), line 18, please insert a comma after "Compensation"*

*In (d), lines 30 and 31, what do you mean by "indicate"? Is this checking a box on the form?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020

1 11 NCAC 23A .0903 is amended with changes as published in 34:14 NCAC 1293-94 as follows:

2  
3 **11 NCAC 23A .0903 EMPLOYEE'S OBLIGATION TO REPORT EARNINGS**

4 (a) A self-insured employer, ~~earrier~~ carrier, or third-party administrator may require the employee who has filed a  
5 claim and is receiving wage loss benefits under G.S. 97-29 or G.S. 97-30 to complete a Form 90 Report of Earnings  
6 when reasonably necessary but not more than once every six months.

7 (b) The Form 90 Report of Earnings shall be sent to the employee by certified mail, return receipt requested, and shall  
8 include a self-addressed stamped envelope for the return of the form. When the employee is represented by an attorney,  
9 the Form 90 Report of Earnings shall be sent only to the attorney for the employee and shall be sent by any method  
10 of transmission that provides proof of receipt, including electronic mail, facsimile, or certified mail return receipt  
11 requested, and not to the employee.

12 (c) The employee shall complete and return the Form 90 Report of Earnings within 15 days after receipt of a Form  
13 90 Report of Earnings. If the employee fails to complete and return the Form 90 Report of Earnings within 30 days of  
14 receipt of the form, the self-insured employer, ~~earrier~~ carrier, or third-party administrator may seek ~~an order from the~~  
15 ~~Executive Secretary allowing the suspension of benefits. The self-insured employer, carrier or third party~~  
16 ~~administrator shall not suspend benefits without Commission approval pursuant to the Workers' Compensation Act.~~  
17 to suspend compensation being paid pursuant to G.S. 97-29 by filing a Form 24 Application to Terminate or Suspend  
18 Payment of Compensation as allowed by G.S. 97-18.1 and Rule .0404 of this Subchapter. If the Commission suspends  
19 benefits for failure to complete and return a Form 90 Report of Earnings, the self-insured employer, carrier or third-  
20 party administrator shall reinstate benefits to the employee with back payment as soon as the Form 90 Report of  
21 Earnings is submitted by the employee. If benefits are not reinstated, the employee shall submit a written request for  
22 an Order from the Executive Secretary instructing the self-insured employer, carrier or third party administrator to  
23 reinstate benefits. If the employee's earnings report does not indicate continuing eligibility for partial or total disability  
24 compensation, the self-insured employer, carrier or third party administrator may apply to the Commission to  
25 terminate or modify benefits by filing a Form 24 Application to Terminate or Suspend Payment of Compensation or  
26 Form 33 Request that Claim be Assigned for Hearing.

27 (d) If compensation is suspended pursuant to Paragraph (c) of this Rule and the employee subsequently completes  
28 and returns the Form 90 Report of Earnings, the self-insured employer, carrier, or third-party administrator shall  
29 reinstate payment of compensation to the employee with back payment. However, if the Form 90 Report of Earnings  
30 does not indicate continuing eligibility for disability compensation, the self-insured employer, carrier, or third-party  
31 administrator is not required to reinstate payment of compensation. If the Form 90 Report of Earnings indicates  
32 continuing eligibility for temporary partial disability compensation, the self-insured employer, carrier, or third-party  
33 administrator shall make payment of compensation pursuant to G.S. 97-30 with back payment within 14 days of  
34 receipt of documentation establishing the amount of compensation due. If payment of compensation is not reinstated  
35 following submission of the completed Form 90 Report of Earnings and the employee claims entitlement to ongoing  
36 disability compensation, the employee may seek reinstatement by filing a Form 23 Application to Reinstate Payment  
37 of Disability Compensation or Form 33 Request that Claim be Assigned for Hearing.

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*History Note:* Authority G.S. 97-80(a); ~~97-88.2;~~  
*Eff. June 1, 2000;*  
*Amended Eff. November 1, 2014; August 1, 2006;*  
*Recodified from 04 NCAC 10A .0903 Eff. June 1, 2018;*  
*Amended Eff. December 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23B .0104

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In (b), line 11, I note that you deleted "register for and" in Rule 23A .0108. Did you wish to remove the language here, as well?*

*In (c), Page 2, what is "temporary" here? Is this determined by the by individual applying for the waiver?*

*In (d), line 6, I take it that using EDPF will count as the requirement to allow electronic mail for the notice of appeal as the statute was amended by SL 2020-78?*

*On line 7, what are "applicable statutes"? Does your regulated public know?*

*Why do you need the sentence on lines 7-8? Paragraph (a), lines 6-8, already states this. Why does it need to be repeated?*

*In the History Note, why are you citing to G.S. 143-291.2?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020

11 NCAC 23B .0104 is amended as published in 34:20 NCR 1852-53 as follows:

**11 NCAC 23B .0104 ELECTRONIC FILINGS WITH THE COMMISSION; HOW TO FILE**

(a) All filings to the Commission in tort claims shall be submitted electronically in accordance with this Rule. Any document transmitted to the Commission in a manner not in accordance with this Rule shall not be accepted for filing. Plaintiffs without legal representation may file all documents with the Office of the Clerk of the Commission via the Commission's Electronic Document Filing Portal (~~EDFP~~), ("EDFP") or by sending the documents to the Clerk of the Industrial Commission via electronic mail, mail ([dockets@ic.nc.gov](mailto:dockets@ic.nc.gov)), facsimile, U.S. Mail, private courier service, or hand delivery.

(b) ~~Except as set forth in Paragraph (c) of this Rule, all documents shall be transmitted to the Commission via EDPF.~~ Information regarding how to register for and use EDPF is available at <http://www.ic.nc.gov/training.html>. In the event EDPF is inoperable, all documents required to be filed via EDPF shall be transmitted to the Commission via electronic mail to [edfp@ic.nc.gov](mailto:edfp@ic.nc.gov). Documents required to be filed via EDPF that are sent to the Commission via electronic mail when EDPF is operable shall not be accepted for filing.

~~(c) The tort claims forms and documents listed in Table 1 shall not be required to be transmitted via EDPF provided all applicable qualifying conditions are met.~~

Table 1: Forms and documents exempt from EDPF filing requirements and how to file them:

DOCUMENT	QUALIFYING CONDITION(S)	HOW TO FILE
Form T-1	No IC file number has been assigned	Hand delivery to the Industrial Commission's main office or by mail to 1236 Mail Service Center, Raleigh, North Carolina 27699-1236.
Form T-3	No IC file number has been assigned	Email to <a href="mailto:dockets@ic.nc.gov">dockets@ic.nc.gov</a> , hand delivery to the Industrial Commission's main office, or by mail to 1236 Mail Service Center, Raleigh, North Carolina; 27699-1236
<del>Pre-affidavit motion under Rule 9(j)(3) of the Rules of Civil Procedure to extend the Statute of Limitations.</del>	<del>No IC file number has been assigned.</del>	<del>Hand delivery to the Industrial Commission's main office or by mail to 1236 Mail Service Center, Raleigh, North Carolina 27699-1236.</del>

~~(d) A one year waiver shall be granted to an attorney who notifies the Commission of the attorney's inability to comply with the electronic filing requirements in Paragraph (a) of this Rule due to a lack of the necessary internet technology resources. The notification shall indicate why the attorney is unable to comply with the rule and outline the attorney's plan for coming into compliance within the one year period. The notification shall be filed with the Office of the Clerk of the Commission via facsimile or U.S. Mail. This Paragraph shall expire one year from the effective date of this Rule.~~

1 ~~(c)(e)~~ Any party may apply to the Commission for an emergency temporary waiver of the electronic filing requirement  
2 set forth in Paragraph (a) of this Rule if it is unable to comply because of temporary technical problems or lack of  
3 electronic mail or internet access. The request for an emergency temporary waiver shall be included with any filing  
4 submitted via facsimile, U.S. Mail, or hand delivery due to such temporary technical or access issues.

5 ~~(d)(f)~~ A Notice of Appeal to the North Carolina Court of Appeals shall be accepted for filing by the Commission via  
6 ~~EDFP or U.S. Mail. EDPF, U.S. Mail, hand delivery, or any other means allowed by the Rules of Appellate Procedure~~  
7 ~~or applicable statutes governing appeals from the General Courts of Justice. Notwithstanding the foregoing, plaintiffs~~  
8 ~~without legal representation may file all documents with the Commission as provided in Paragraph (a) of this Rule.~~

9  
10 *History Note: Authority G.S. 143-291; 143-291.2; 143-293; 143-297; 143-300;*  
11 *Eff. May 1, 2000;*  
12 *Amended Eff. July 1, 2014;*  
13 *Recodified from 04 NCAC 10B .0104 Eff. June 1, 2018;*  
14 *Amended Eff. March 1, 2019;*  
15 *Amended Eff. February 1, 2021.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23B .0105

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*I note that this Rule mirrors the language in 23A .0109, but some of it is different. Consider making minor revisions to this Rule to more closely mirror Rule 23A .0109 by:*

- *In (b), line 6, replace “advise” with “inform”*
- *On line 7, replace “upon” with “of”*
- *On line 8, replace “electronic mail” with “email” and state “email to [contactinfo@ic.nc.gov](mailto:contactinfo@ic.nc.gov),”*
- *In (c), line 14, replace “advise the Commission upon” with “inform the Commission of”*

*In (c), line 11, please just state “30 days”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020



1 11 NCAC 23B .0105 is amended with changes as published in 34:20 NCR 1853 as follows:

2  
3 **11 NCAC 23B .0105 CONTACT INFORMATION**

4 (a) "Contact information" for purposes of this Rule shall include telephone number, facsimile number, email address,  
5 and mailing address.

6 (b) All persons or entities without legal representation who have matters pending before the Commission shall advise  
7 the Commission upon any change in contact information by filing a written notice via the Commission's Electronic  
8 Document Filing Portal ("EDFP"), electronic mail, mail (doockets@ic.nc.gov), ~~mail (contactinfo@ic.nc.gov).~~  
9 facsimile, U.S. Mail, private courier service, or hand delivery.

10 (c) A plaintiff without legal representation who was an inmate in the North Carolina Division of Adult Corrections at  
11 the time of filing his or her tort claim, shall, within thirty (30) days of release, provide the Commission with written  
12 notice of his or her post-release contact information in any manner authorized in Paragraph (b) of this Rule. Following  
13 the initial written notice of post-release contact information, the previously incarcerated plaintiff shall continue to  
14 advise the Commission upon all changes in contact information in accordance with Paragraph (b) of this Rule.

15 (d) All attorneys of record with matters before the Commission shall inform the Commission in writing of any change  
16 in the attorney's or the represented party's contact information via ~~email to dockets@ic.nc.gov.~~ EDFP.

17  
18 *History Note: Authority G.S. 143-291; 143-300;*

19 *Eff. March 1, 2019;*

20 *Amended Eff. February 1, 2021.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23B .0106

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*On the Submission for Permanent Rule form, Box 8, you state this was approved by OSBM. However, in the January 15, 2020 Register, you stated this Rule was part of a combined analysis that affected funds and was approved by OSBM. Please confirm the correct boxes are checked here.*

*I take it that the change made to Paragraph (a) was due to the change to G.S. 143-293 made by SL 2020-78, Section 16.1, which states:*

INDUSTRIAL COMMISSION USE ELECTRONIC MAIL TO SEND  
DECISIONS

**SECTION 16.1.(a)** G.S. 143-293 reads as rewritten:

"§ 143-293. Appeals to Court of Appeals.

Either the claimant or the State may, within 30 days after receipt of the decision and order of the full Commission, to be sent by ~~registered or certified~~ registered, certified, or electronic mail, but not thereafter, appeal from the decision of the Commission to the Court of Appeals. Such appeal shall be for errors of law only under the same terms and conditions as govern appeals in ordinary civil actions, and the findings of fact of the Commission shall be conclusive if there is any competent evidence to support them. The appellant shall cause to be prepared a statement of the case as required by the rules of the Court of Appeals. A copy of this statement shall be served on the respondent within 45 days from the entry of the appeal taken; within 20 days after such service, the respondent shall return the copy with ~~his~~ the respondent's approval or specified amendments endorsed or attached; if the case be approved by the respondent, it shall be filed with the clerk of the Court of Appeals as a part of the record; if not returned with objections within the time prescribed, it shall be deemed approved. The ~~chairman~~ chair of the Industrial Commission shall have the power, in the exercise of ~~his~~ the chair's

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: October 30, 2020

discretion, to enlarge the time in which to serve statement of case on appeal and exceptions thereto or counterstatement of case.

If the case on appeal is returned by the respondent with objections as prescribed, or if a counter case is served on appellant, the appellant shall immediately request the ~~chairman-chair~~ of the Industrial Commission to fix a time and place for settling the ~~case before him-case~~. If the appellant delays longer than 15 days after the respondent serves ~~his-the~~ counter case or exceptions to request the ~~chairman~~ chair to settle the case on appeal, and delays for such period to ~~mail-mail, as~~ provided in this section, the case and counter case or exceptions to the ~~chairman,~~ chair, then the exceptions filed by the respondent shall be allowed; or the counter case served ~~by him~~ shall constitute the case on appeal; but the time may be extended by agreement of counsel.

The ~~chairman-chair~~ shall forthwith notify the attorneys of the parties to appear before ~~him-the chair~~ for that purpose at a certain time and place, which time shall not be more than 20 days from the receipt of the request. At the time and place stated, the ~~chairman-chair~~ of the Industrial Commission or ~~his-the chair's~~ designee shall settle and sign the case and deliver a copy to the attorneys of each party. The appellant shall within five days thereafter file it with the clerk of the Court of Appeals, and if ~~he-the appellant~~ fails to do so the respondent may file ~~his-the~~ respondent's copy.

No appeal bond or supersedeas bond shall be required of State departments or agencies."

**SECTION 16.1.(b)** This section becomes effective July 1, 2020, and applies to decisions and orders sent on or after that date.

*In (b), line 11, consider replacing "shall" with "will" or "is" Or are you saying there are statutes that will require the use of only electronic service?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 11 NCAC 23B .0106 is adopted with changes as published in 34:14 NCAC 1294 as follows:

2  
3 **11 NCAC 23B .0106 NOTICE BY THE COMMISSION**

4 (a) If service is provided by electronic mail, "receipt of such notice" pursuant to G.S. 143-292 and "receipt of the  
5 decision and order" of the Full Commission pursuant to G.S. 143-293 is complete one hour after it is sent by the  
6 Commission, provided that:

7 (1) notice sent after 5:00 p.m. shall be complete at 8:00 a.m. the following State business day; and

8 (2) notice sent by electronic mail that is not readable by the recipient is not complete. Within five State  
9 business days of receipt of an unreadable document, the receiving party shall notify the Commission  
10 of the unreadability of the document.

11 (b) If service shall be provided by electronic mail, notice of orders or other documents issued pursuant to G.S. 143-  
12 296 is complete in accordance with the same provisions set forth in Paragraph (a) of this Rule.

13  
14 *History Note: Authority G.S. 143-300;*

15 *Eff. December 1, 2020.*  
16  
17

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23E .0104

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*On the Submission for Permanent Rule form, Box 8, should the box "This Rule was part of a combined analysis" also be checked?*

*In (e)(1), line 34, since you allow out of state attorneys to practice, I take it "state" can be any state, not just NC? If you do mean only NC, then please capitalize "State"*

*In (g), Page 2, line 29, I suggest replacing "Subparagraphs (f)(1) and (f)(2)" with "Paragraph (f)"*

*Also on line 29, replace "this" before "exception" with "an"*

*So that I'm clear – the notice to all opposing parties on lines 32-35 will only occur if the attorney is seeking the exceptions, and not if a "regular" request for secure leave is submitted?*

*And what will the Chair base the waiver determination upon? Will this be on a case-by-case basis? Will the Chair take into account opposition by the opposing parties?*

*In (i), Page 3, line 8, you say the attorney "may" serve the letter on the opposing party regarding depositions. Is this intended to allow an attorney to not exercise his or her secure leave? (I note that in (h), you say the attorney "shall" file a copy of the letter.)*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020

1 11 NCAC 23E .0104 is amended as published in 34:14 NCR 1294-95 as follows:

2  
3 **11 NCAC 23E .0104 SECURE LEAVE PERIODS FOR ATTORNEYS**

4 (a) Any attorney may request one or more secure leave periods each year as provided in this Rule.

5 (b) For the purpose of this Paragraph only, a "secure leave period" is defined as a partial calendar week or a complete  
6 calendar week. ~~During any~~ Within a calendar year, an attorney's secure leave periods pursuant to this Rule shall not  
7 exceed an aggregate of three weeks. attorney is entitled to obtain secure leave periods totaling up to 15 business days  
8 for any purpose.

9 (c) For the purpose of this Paragraph only, a "secure leave period" is defined as a complete calendar week. Within a  
10 24-week period surrounding the birth or adoption of an attorney's child, that attorney is entitled to have the benefit of  
11 up to 12 additional secure leave periods.

12 ~~(e) To request a secure leave period an attorney shall file a written request, by letter or motion, containing the~~  
13 ~~information required by Paragraph (d) of this Rule with the Office of the Chair within the time provided in Paragraph~~  
14 ~~(e). Upon such filing, the Chair shall review the request and, if the request complies with Paragraphs (d) and (e) of~~  
15 ~~this Rule, issue a letter allowing the requested secure leave period. The attorney shall not be required to appear at any~~  
16 ~~trial, hearing, deposition, or other proceeding before the Commission during that secure leave period.~~

17 (d) To request a secure leave period, an attorney shall file a written request, by letter or motion, containing the  
18 information required by Paragraph (e) of this Rule with the Office of the Chair within the time period provided in  
19 Paragraph (f) of this Rule. Upon such filing, the Chair shall review the request. If the request is made pursuant to  
20 Paragraph (b) or Paragraph (c) of this Rule and the request complies with Paragraphs (e) and (f) of this Rule, the Chair  
21 shall issue a letter allowing the requested secure leave period. The attorney shall not be required to appear at any trial,  
22 hearing, deposition, or other proceeding before the Commission during a secure leave period that is allowed.

23 (d) The request shall contain the following information:

- 24 (1) the attorney's name, address, telephone number and state bar number;  
25 (2) the date(s) for which secure leave is being requested;  
26 (3) the dates of all other secure leave periods during the current calendar year that have previously been  
27 designated by the attorney pursuant to this Rule;  
28 (4) a statement that the secure leave period is not being designated for the purpose of delaying, hindering  
29 or interfering with the timely disposition of any matter in any pending action or proceeding; and  
30 (5) a statement that no action or proceeding in which the attorney has entered an appearance has been  
31 scheduled, tentatively set, or noticed for trial, hearing, deposition or other proceeding during the  
32 designated secure leave period.

33 (e) The request shall contain the following information:

- 34 (1) the attorney's name, mailing address, telephone number, email address, and state bar number;  
35 (2) the date(s) for which secure leave is being requested;  
36 (3) the dates of all other secure leave periods during the current calendar year that have previously been  
37 designated by the attorney pursuant to this Rule;

- 1           (4)     a statement that the secure leave period is not being designated for the purpose of delaying,  
2                   hindering, or interfering with the disposition of any matter in any pending action or proceeding;  
3           (5)     a statement that no action or proceeding in which the attorney has entered an appearance has been  
4                   scheduled, tentatively set, or noticed for trial, hearing, deposition, or other proceeding during the  
5                   designated secure leave period; and  
6           (6)     for secure leave requests that arise under Paragraph (c) of this Rule, the expected birth date or  
7                   adoption date of the child.

8 ~~(e) To be allowed, the request shall be filed:~~

- 9           (1)     ~~no later than 90 days before the beginning of the secure leave period; and~~  
10          (2)     ~~before any trial, hearing, deposition or other matter has been regularly scheduled, peremptorily set~~  
11                   ~~or noticed for a time during the designated secure leave period.~~

12 An untimely request will be denied by letter. In the event that a party has been denied secure leave because the request  
13 was not timely filed and there are extraordinary circumstances, the attorney may file a motion requesting an exception.  
14 If the case has been scheduled for hearing before a Deputy Commissioner, the motion shall be addressed to the Deputy  
15 Commissioner. If the matter is scheduled for hearing before the Full Commission, the motion shall be addressed to  
16 the Chair of the Panel before which the hearing will be held. In all other cases, the motion should be directed to the  
17 Office of the Chair.

18 (f) The request shall be filed:

- 19          (1)     no later than 90 days before the beginning of the secure leave period; and  
20          (2)     before any trial, hearing, deposition, or other matter has been scheduled, peremptorily set, or noticed  
21                   for a time during the designated secure leave period.

22 ~~(f) If, after a secure leave period has been allowed pursuant to this Rule, any trial, hearing, deposition, or other~~  
23 ~~proceeding is scheduled or tentatively set for a time during the secure leave period, the attorney shall file with the~~  
24 ~~Deputy Commissioner or chair of the Full Commission panel before which the matter was calendared or set, and serve~~  
25 ~~on all parties, a copy of the letter allowing the secure leave period with a certificate of service attached. Upon receipt,~~  
26 ~~the proceeding shall be rescheduled for a time that is not within the attorney's secure leave period.~~

27 (g) The Chair may, as set forth in Rule .0301 of this Subchapter, make exception to the 15-day aggregate limit set  
28 forth in Paragraph (b) of this Rule, the requirement set forth in Subparagraph (e)(5) of this Rule, and the limitations  
29 set forth in Subparagraphs (f)(1) and (f)(2) of this Rule. An attorney requesting that the Chair make this exception  
30 under this Paragraph shall inform the Chair of all known actions or proceedings involving that attorney that are  
31 scheduled, tentatively set, or noticed for trial, hearing, deposition, or other proceeding during the requested secure  
32 leave period. The attorney also shall provide notice to all opposing parties or, if represented, opposing counsel of  
33 record in all cases subject to the jurisdiction of the Industrial Commission of the beginning and ending dates of the  
34 requested secure leave period and of all known actions or proceedings involving that attorney that are scheduled,  
35 tentatively set, or noticed for trial, hearing, deposition, or other proceeding during the requested secure leave period.

36 ~~(g) If, after a secure leave period has been allowed pursuant to this Rule, any deposition is noticed for a time during~~  
37 ~~the secure leave period, the attorney may serve on the party that noticed the deposition a copy of the letter allowing~~

1 ~~the secure leave period with a certificate of service attached, and that party shall reschedule the deposition for a time~~  
2 ~~that is not within the attorney's secure leave period.~~

3 (h) After a secure leave period has been allowed pursuant to this Rule, if any trial, hearing, or other proceeding is  
4 scheduled or tentatively set for a time during the secure leave period, the attorney shall file with the Deputy  
5 Commissioner or Chair of the Full Commission panel before which the matter was calendared or set, and serve on all  
6 parties, a copy of the letter allowing the secure leave period with a certificate of service attached. Upon receipt, the  
7 proceeding shall be rescheduled for a time that is not within the attorney's secure leave period.

8 (i) After a secure leave period has been allowed pursuant to this Rule, if any deposition is noticed for a time during  
9 the secure leave period, the attorney may serve on the party that noticed the deposition a copy of the letter allowing  
10 the secure leave period with a certificate of service attached, and that party shall reschedule the deposition for a time  
11 that is not within the attorney's secure leave period.

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

14 *Eff. July 1, 2014;*

15 *Recodified from 04 NCAC 10E .0104 Eff. June 1, 2018;*

16 *Amended Eff. December 1, 2020.*  
17  
18



## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23L .0101

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*On Page 4, I am only asking – do you need to retain the information for injuries incurred before July 5, 1994?*

*On Page 5, line 40, should this state “be provided a copy of the form when the agreement...” in order to be consistent with the language in Rule 23L .0102?*

*On line 53, please change the date to February 2021, as that will be the effective date of this amendment.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020

1 11 NCAC 23L .0101 is amended as published in 34:20 NCR 1853-58 as follows:

2  
3 **11 NCAC 23L .0101 FORM 21 – AGREEMENT FOR COMPENSATION FOR DISABILITY**

4 ~~(a)(Effective until July 1, 2015) The parties to a workers' compensation claim shall use the following Form 21,~~  
5 ~~Agreement for Compensation for Disability, for agreements regarding disability and payment of compensation~~  
6 ~~therefor pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as payment of~~  
7 ~~compensation for permanent partial disability may also be included on the form. This form is necessary to comply~~  
8 ~~with Rule 11 NCAC 23A .0501, where applicable. The Form 21, Agreement for Compensation for Disability, shall~~  
9 ~~read as follows:~~

10  
11 North Carolina Industrial Commission  
12 Agreement for Compensation for Disability  
13 (G.S. 97-82)

14  
15 IC File # \_\_\_\_\_  
16 Emp. Code # \_\_\_\_\_  
17 Carrier Code # \_\_\_\_\_  
18 Carrier File # \_\_\_\_\_  
19 Employer FEIN \_\_\_\_\_

20  
21 ~~The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act~~

22  
23 \_\_\_\_\_  
24 Employee's Name  
25 \_\_\_\_\_  
26 Address  
27 \_\_\_\_\_  
28 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
29 \_\_\_\_\_  
30 Home Telephone \_\_\_\_\_ Work Telephone \_\_\_\_\_  
31 Social Security Number: \_\_\_\_\_ Sex: ☐ M ☐ F Date of Birth: \_\_\_\_\_  
32 \_\_\_\_\_  
33 \_\_\_\_\_  
34 Employer's Name \_\_\_\_\_ Telephone Number \_\_\_\_\_  
35 \_\_\_\_\_  
36 Employer's Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
37 \_\_\_\_\_  
38 Insurance Carrier  
39 \_\_\_\_\_  
40 Carrier's Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
41 \_\_\_\_\_  
42 Carrier's Telephone Number \_\_\_\_\_ Carrier's Fax Number \_\_\_\_\_

43  
44 We, The Undersigned, Do Hereby Agree And Stipulate As Follows:

- 45 1. \_\_\_\_\_ All parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and  
46 \_\_\_\_\_ is the carrier/administrator for the employer.  
47 2. \_\_\_\_\_ The employee sustained an injury by accident or the employee contracted an occupational disease arising out  
48 of and in the course of employment on or by \_\_\_\_\_.  
49 3. \_\_\_\_\_ The injury by accident or occupational disease resulted in the following injuries: \_\_\_\_\_  
50 \_\_\_\_\_.  
51 4. \_\_\_\_\_ The employee ☐ was/ ☐ was not paid for the entire day when the injury occurred.

5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$\_\_\_\_\_, subject to verification unless otherwise agreed upon in Item 9 below.

6. Disability resulting from the injury or occupational disease began on \_\_\_\_\_.

7. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate of \$\_\_\_\_\_ per week beginning \_\_\_\_\_, and continuing for \_\_\_\_\_ weeks.

8. The employee ☐ has / ☐ has not returned to work for \_\_\_\_\_ on \_\_\_\_\_, at an average weekly wage of \$\_\_\_\_\_.

9. State any further matters agreed upon, including disfigurement, permanent partial, or temporary partial disability: \_\_\_\_\_.

10. If applicable, the Second Injury Fund Assessment is \$\_\_\_\_\_. Check ☐ is ☐ is not attached.

11. The date of this agreement is \_\_\_\_\_. Date of first payment: \_\_\_\_\_. Amount: \_\_\_\_\_.

12. IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of the fee in advance, and if your award is \$3,000.00 or less, you are not responsible for any portion of the fee. If your award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer agree otherwise.

Check one of the boxes below if the award is more than \$3,000.00:

☐ The employer will deduct \$150.00 from the amount to be paid pursuant to this agreement.

☐ The employee and employer have agreed that the employer will pay the entire fee.

\_\_\_\_\_  
Name Of Employer \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_

\_\_\_\_\_  
Name Of Carrier / Administrator \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on Pages 1 and 2 of this form.

\_\_\_\_\_  
Signature of Employee \_\_\_\_\_ Address \_\_\_\_\_

\_\_\_\_\_  
Signature of Employee's Attorney \_\_\_\_\_ Address \_\_\_\_\_

North Carolina Industrial Commission

The Foregoing Agreement Is Hereby Approved:

\_\_\_\_\_  
Claims Examiner \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Attorney's Fee Approved

☐ Check Box If No Attorney Retained.

☐ Check Box If Employee Is In Managed Care.

~~IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS~~

~~Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.~~

~~IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS~~

~~If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.~~

~~IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS~~

~~If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must apply to the Industrial Commission in writing within two years, or your right to these benefits may be lost. To apply you may also use Industrial Commission Form 18M, Employee's Application for Additional Medical Compensation (G.S. 97-25.1), available at <http://www.ic.nc.gov/forms.html>.~~

~~IMPORTANT NOTICE TO EMPLOYER~~

~~The employee must be provided a copy when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The employer or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.~~

~~NEED ASSISTANCE?~~

~~If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.~~

~~Form 21  
11/2014~~

~~Self Insured Employer or Carrier, Mail to:  
NCIC Claims Section  
4335 Mail Service Center  
Raleigh, NC 27699-4335  
Telephone: (919) 807-2502  
Helpline: (800) 688-8349  
Website: <http://www.ic.nc.gov/>~~

~~(a)(Effective July 1, 2015) The parties to a workers' compensation claim shall use the following Form 21, Agreement for Compensation for Disability, for agreements regarding disability and payment of compensation therefor pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as payment of compensation for permanent partial disability may also be included on the form. This form is necessary to comply with Rule 11 NCAC 23A .0501, where applicable. The Form 21, Agreement for Compensation for Disability, shall read as follows:~~

~~North Carolina Industrial Commission  
Agreement for Compensation for Disability  
(G.S. 97-82)~~

~~IC File # \_\_\_\_\_  
Emp. Code # \_\_\_\_\_  
Carrier Code # \_\_\_\_\_  
Carrier File # \_\_\_\_\_  
Employer FEIN \_\_\_\_\_~~

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name

Address

City State Zip

Home Telephone

Work Telephone

Last 4 digits of Social Security Number: Sex: ☐ M ☐ F Date of Birth:

Employer's Name

Telephone Number

Employer's Address

City State Zip

Insurance Carrier

Carrier's Address

City State Zip

Carrier's Telephone Number

Carrier's Fax Number

We, The Undersigned, Do Hereby Agree And Stipulate As Follows:

1. All parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and is the carrier/administrator for the employer.

2. The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on or by.

3. The injury by accident or occupational disease resulted in the following injuries:

4. The employee ☐ was/ ☐ was not paid for the entire day when the injury occurred.

5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$, subject to verification unless otherwise agreed upon in Item 9 below.

6. Disability resulting from the injury or occupational disease began on.

7. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate of \$ per week beginning, and continuing for weeks.

8. The employee ☐ has / ☐ has not returned to work for on, at an average weekly wage of \$.

9. State any further matters agreed upon, including disfigurement, permanent partial, or temporary partial disability:

10. If applicable, the Second Injury Fund Assessment is \$. Check ☐ is ☐ is not attached.

11. The date of this agreement is. Date of first payment: Amount:

Name Of Employer

Signature

Title

Name Of Carrier / Administrator

Signature

Title

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on Page 2 of this form.

Signature of Employee

Address

Signature of Employee's Attorney

Address

North Carolina Industrial Commission  
The Foregoing Agreement Is Hereby Approved:

Claims Examiner	Date
-----------------	------

Attorney's Fee Approved

☐ Check Box If No Attorney Retained.  
☐ Check Box If Employee Is In Managed Care.

IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS

Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.

IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must apply to the Industrial Commission in writing file an application for additional medical compensation pursuant to G.S. 97-25.1 within two years, or your right to these benefits may be lost. ~~To apply you may also use Industrial Commission Form 18M, Employee's Application for Additional Medical Compensation (G.S. 97-25.1), available at <http://www.ic.nc.gov/forms.html>.~~ An application for additional medical compensation may be made on a Form 18M Employee's Application for Additional Medical Compensation or by written request. In the alternative, an employee may file an application for additional medical compensation by filing a Form 33 Request that Claim be Assigned for Hearing pursuant to 11 NCAC 23A .0602. All Industrial Commission forms are available at <https://www.ic.nc.gov/forms.html>.

## IMPORTANT NOTICE TO EMPLOYER

The employee must be provided a copy when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission. ~~Commission, or show cause for not submitting the agreement.~~ The employer or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.

## NEED ASSISTANCE?

If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.

Form 21  
~~7/2015-8/2020~~

Self-Insured Employer or Carrier, File via Electronic Document Filing Portal (“EDFP”): Carrier, Mail to:  
~~NCIC – Claims Section~~

~~4335 Mail Service Center  
Raleigh, NC 27699-4335  
Telephone: (919) 807-2502  
Helpline: (800) 688-8349  
Website: <http://www.ic.nc.gov/>  
<https://www.ic.nc.gov/docfiling.html>  
Contact Information:  
NCIC- Claims Administration  
Telephone: (919) 807-2502  
Helpline: (800) 688-8349  
Website: <https://www.ic.nc.gov>~~

(b) The copy of the form described in Paragraph (a) of this Rule can be accessed at ~~<http://www.ic.nc.gov/forms/form21.pdf>~~ <https://www.ic.nc.gov/forms/form21.pdf>. The form may be reproduced only in the format available at ~~<http://www.ic.nc.gov/forms/form21.pdf>~~ <https://www.ic.nc.gov/forms/form21.pdf> and may not be altered or amended in any way.

*History Note: Authority G.S. 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77;  
Eff. November 1, 2014;  
Recodified from 04 NCAC 10L .0101 Eff. June 1, 2018;  
Amended Eff. February 1, 2021.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23L .0102

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*On Page 4, I am only asking – do you need to retain the information for injuries incurred before July 5, 1994?*

*On line 44, please change the date to February 2021, as that will be the effective date of this amendment.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020



1 11 NCAC 23L .0102 is amended as published in 34:20 NCR 1858-62 as follows:

2  
3 **11 NCAC 23L .0102 FORM 26 – SUPPLEMENTAL AGREEMENT AS TO PAYMENT OF**  
4 **COMPENSATION**

5 ~~(a)(Effective until July 1, 2015) If the parties to a workers' compensation claim have previously entered into an~~  
6 ~~approved agreement on a Form 21, Agreement for Compensation for Disability, or a Form 26A, Employer's Admission~~  
7 ~~of Employee's Right to Permanent Partial Disability, they shall use the following Form 26, Supplemental Agreement~~  
8 ~~as to Payment of Compensation, for agreements regarding subsequent additional disability and payment of~~  
9 ~~compensation pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as payment of~~  
10 ~~compensation for permanent partial disability may also be included on the form. This form is necessary to comply~~  
11 ~~with Rule 11 NCAC 23A .0501, where applicable. The Form 26, Supplemental Agreement as to Payment of~~  
12 ~~Compensation, shall read as follows:~~

13  
14 North Carolina Industrial Commission  
15 Supplemental Agreement as to Payment  
16 of Compensation (G.S. §97-82)

17  
18 IC File # \_\_\_\_\_  
19 Emp. Code # \_\_\_\_\_  
20 Carrier Code # \_\_\_\_\_  
21 Carrier File # \_\_\_\_\_  
22 Employer FEIN \_\_\_\_\_

23  
24 The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

25  
26 \_\_\_\_\_  
27 Employee's Name

28 \_\_\_\_\_  
29 Address

30 \_\_\_\_\_  
31 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

32 \_\_\_\_\_  
33 Home Telephone \_\_\_\_\_ Work Telephone \_\_\_\_\_

34 Social Security Number: \_\_\_\_\_ Sex: ☐ M ☐ F Date of Birth: \_\_\_\_\_

35  
36 \_\_\_\_\_  
37 Employer's Name \_\_\_\_\_ Telephone Number \_\_\_\_\_

38 \_\_\_\_\_  
39 Employer's Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

40 \_\_\_\_\_  
41 Insurance Carrier

42 \_\_\_\_\_  
43 Carrier's Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

44 \_\_\_\_\_  
45 Carrier's Telephone Number \_\_\_\_\_ Carrier's Fax Number \_\_\_\_\_

46  
47 We, The Undersigned, Do Hereby Agree and Stipulate As Follows:

48 1. \_\_\_\_\_ Date of injury: \_\_\_\_\_

2. \_\_\_\_\_ The employee ☐ returned to work / ☐ was rated on \_\_\_\_\_ (date), at a weekly wage of \$\_\_\_\_\_.  
3. \_\_\_\_\_ The employee became totally disabled on \_\_\_\_\_.  
4. \_\_\_\_\_ Employee's average weekly wage ☐ was reduced / ☐ was increased on \_\_\_\_\_, from \$\_\_\_\_\_ per week to \$\_\_\_\_\_ per week.  
5. \_\_\_\_\_ The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate of \$\_\_\_\_\_ per week.  
8. Beginning \_\_\_\_\_, and continuing for \_\_\_\_\_ weeks. The type of disability compensation is \_\_\_\_\_.

6. \_\_\_\_\_ State any further matters agreed upon, including disfigurement or temporary partial disability: \_\_\_\_\_.

7. ~~IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of the fee in advance, and if your award is \$3,000.00 or less, you are not responsible for any portion of the fee. If your award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer agree otherwise.~~

~~Check one of the boxes below if the award is more than \$3,000.00:~~

~~☐ The employer will deduct \$150.00 from the amount to be paid pursuant to this agreement.~~

~~☐ The employee and employer have agreed that the employer will pay the entire fee.~~

8. \_\_\_\_\_ The date of this agreement is \_\_\_\_\_.

_____ Name Of Employer	_____ Signature	_____ Title
---------------------------	--------------------	----------------

_____ Name Of Carrier/Administrator	_____ Signature	_____ Title
--	--------------------	----------------

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on Pages 1 and 2 of this form.

_____ Signature of Employee	_____ Address
--------------------------------	------------------

_____ Signature of Employee's Attorney	_____ Address
---	------------------

☐ Check box if no attorney retained.

North Carolina Industrial Commission

The Foregoing Agreement Is Hereby Approved:

_____ Claims Examiner	_____ Date
--------------------------	---------------

Attorney's fee approved \_\_\_\_\_

~~IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS~~

~~Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.~~

~~IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS~~

~~If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.~~

~~IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS~~

1 ~~If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several~~  
2 ~~factors. Your right to payment of future medical compensation will terminate two years after your employer or~~  
3 ~~carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think~~  
4 ~~you will need future medical compensation, you must apply to the Industrial Commission in writing within two years,~~  
5 ~~or your right to these benefits may be lost. To apply you may also use Industrial Commission Form 18M, Employee's~~  
6 ~~Application for Additional Medical Compensation (G.S. 97-25.1), available at <http://www.ic.nc.gov/forms.html>.~~

#### 8 **IMPORTANT NOTICE TO EMPLOYER**

11 This form shall be used only to supplement Form 21, Agreement for Compensation for Disability (G.S. 97-82), or an  
12 award in cases in which subsequent conditions require a modification of a former agreement or award. The employee  
13 must be provided a copy of the form when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A  
14 .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator  
15 must submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The  
16 employer or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid,  
17 within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.

#### 19 **NEED ASSISTANCE?**

21 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at  
22 (800) 688-8349.

24 Form 26  
25 11/2014

27 Self Insured Employer or Carrier Mail to:  
28 NCIC—Claims Administration  
29 4335 Mail Service Center  
30 Raleigh, North Carolina 27699-4335  
31 Main Telephone: (919) 807-2500  
32 Helpline: (800) 688-8349  
33 Website: <http://www.ic.nc.gov/>

36 (a) ~~(Effective July 1, 2015)~~ If the parties to a workers' compensation claim have previously entered into an approved  
37 agreement on a Form 21, Agreement for Compensation for Disability, or a Form 26A, Employer's Admission of  
38 Employee's Right to Permanent Partial Disability, they shall use the following Form 26, Supplemental Agreement as  
39 to Payment of Compensation, for agreements regarding subsequent additional disability and payment of compensation  
40 pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as payment of compensation for  
41 permanent partial disability may also be included on the form. This form is necessary to comply with Rule 11 NCAC  
42 23A .0501, where applicable. The Form 26, Supplemental Agreement as to Payment of Compensation, shall read as  
43 follows:

45 North Carolina Industrial Commission  
46 Supplemental Agreement as to Payment  
47 of Compensation (G.S. §97-82)

49 IC File # \_\_\_\_\_  
50 Emp. Code # \_\_\_\_\_  
51 Carrier Code # \_\_\_\_\_  
52 Carrier File # \_\_\_\_\_  
53 Employer FEIN \_\_\_\_\_

55 The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name  
Address  
City State Zip  
Home Telephone Work Telephone  
Last 4 digits of Social Security Number: Sex: ☐ M ☐ F Date of Birth:

Employer's Name Telephone Number  
Employer's Address City State Zip  
Insurance Carrier  
Carrier's Address City State Zip  
Carrier's Telephone Number Carrier's Fax Number

We, The Undersigned, Do Hereby Agree and Stipulate As Follows:

1. Date of injury: .
2. The employee ☐ returned to work / ☐ was rated on (date), at a weekly wage of \$ .
3. The employee became totally disabled on .
4. Employee's average weekly wage ☐ was reduced / ☐ was increased on , from \$ per week to \$ per week.
5. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate of \$ per week.  
Beginning , and continuing for weeks. The type of disability compensation is .
6. State any further matters agreed upon, including disfigurement or temporary partial disability: .
7. The date of this agreement is .

Name Of Employer	Signature	Title
Name Of Carrier/Administrator	Signature	Title

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on Page 2 of this form.

Signature of Employee	Address
Signature of Employee's Attorney	Address

☐ Check box if no attorney retained.

North Carolina Industrial Commission  
The Foregoing Agreement Is Hereby Approved:

Claims Examiner	Date
Attorney's fee approved	

1  
2 IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM  
3 PAYMENTS

4 Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial  
5 Commission in writing within two years from the date of receipt of your last compensation check or your rights to  
6 these benefits may be lost.

7  
8 IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL  
9 MEDICAL BENEFITS

10 If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably  
11 necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

12  
13 IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL  
14 MEDICAL BENEFITS

15 If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several  
16 factors. Your right to payment of future medical compensation will terminate two years after your employer or  
17 carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think  
18 you will need future medical compensation, you must ~~apply to the Industrial Commission in writing~~ file an application  
19 for additional medical compensation pursuant to G.S. 97-25.1 within two years, or your right to these benefits may be  
20 lost. To apply you may also use Industrial Commission Form 18M, Employee's Application for Additional Medical  
21 Compensation (G.S. 97-25.1), available at <http://www.ic.nc.gov/forms.html>. An application for additional medical  
22 compensation may be made on a Form 18M Employee's Application for Additional Medical Compensation or by  
23 written request. In the alternative, an employee may file an application for additional medical compensation by filing  
24 a Form 33 Request that Claim be Assigned for Hearing pursuant to 11 NCAC 23A .0602. All Industrial Commission  
25 forms are available at <https://www.ic.nc.gov/forms.html>.

26  
27 IMPORTANT NOTICE TO EMPLOYER

28  
29  
30 This form shall be used only to supplement Form 21, *Agreement for Compensation for Disability* (G.S. 97-82), or an  
31 award in cases in which subsequent conditions require a modification of a former agreement or award. The employee  
32 must be provided a copy of the form when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A  
33 .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator  
34 must submit the agreement to the Industrial ~~Commission. Commission, or show cause for not submitting the~~  
35 ~~agreement.~~ The employer or carrier/administrator shall file a Form 28B, *Report of Compensation and Medical*  
36 *Compensation Paid*, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.

37  
38 NEED ASSISTANCE?

39  
40 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at  
41 (800) 688-8349.

42  
43 Form 26  
44 7/20158/2020

45  
46 Self-Insured Employer or Carrier, File via Electronic Document Filing Portal ("EDFP"); ~~Carrier Mail to:~~  
47 ~~NCIC - Claims Administration~~  
48 ~~4335 Mail Service Center~~  
49 ~~Raleigh, North Carolina 27699-4335~~  
50 ~~Main Telephone: (919) 807-2500~~  
51 ~~Helpline: (800) 688-8349~~  
52 ~~Website: <http://www.ic.nc.gov/>~~  
53 ~~<https://www.ic.nc.gov/docfiling.html>~~  
54 Contact Information:  
55 NCIC- Claims Administration  
56 Telephone: (919) 807-2502

1 Helpline: (800) 688-8349

2 Website: <https://www.ic.nc.gov>

3  
4 (b) The copy of the form described in Paragraph (a) of this Rule can be accessed at  
5 ~~<http://www.ic.nc.gov/forms/form26.pdf>~~. <https://www.ic.nc.gov/forms/form26.pdf>. The form may be reproduced only  
6 in the format available at ~~<http://www.ic.nc.gov/forms/form26.pdf>~~ <https://www.ic.nc.gov/forms/form26.pdf> and may  
7 not be altered or amended in any way.

8  
9 *History Note: Authority G.S. 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77;*

10 *Eff. November 1, 2014;*

11 *Recodified from 04 NCAC 10L .0102 Eff. June 1, 2018;*

12 *Amended Eff. February 1, 2021.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23L .0103, Eff. December 1, 2020

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*So that I'm clear – the agency's intent is to make these minor amendments while awaiting the effective date of the amendment to Rule 23A .0108 and implementing the larger changes with the version of this Rule effective February 1, 2021?*

*On the Submission for Permanent Rule form, Box 8, you state this was approved by OSBM. However, in the January 15, 2020 Register, you stated this Rule was part of a combined analysis that affected funds and was approved by OSBM. Please confirm the correct boxes are checked here.*

*On Pages 7 and 8, I am only asking – do you need to retain the information for injuries incurred before July 5, 1994?*

*On Page 8, line 23, please change the date to December 2020, as that will be the effective date of this amendment.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020

1 11 NCAC 23L .0103 is amended as published in 34:14 NCR 1295-1300 as follows:

2  
3 **11 NCAC 23L .0103 FORM 26A – EMPLOYER'S ADMISSION OF EMPLOYEE'S RIGHT TO**  
4 **PERMANENT PARTIAL DISABILITY**

5 ~~(a) (Effective until July 1, 2015) The parties to a workers' compensation claim shall use the following Form 26A,~~  
6 ~~Employer's Admission of Employee's Right to Permanent Partial Disability, for agreements regarding the employee's~~  
7 ~~entitlement to and the employer's payment of compensation for permanent partial disability pursuant to G.S. 97-31.~~  
8 ~~Additional issues agreed upon by the parties, such as election of payment of temporary partial disability pursuant to~~  
9 ~~G.S. 97-30, may also be included on the form. This form is necessary to comply with Rule 11 NCAC 23A .0501,~~  
10 ~~where applicable. The Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, shall~~  
11 ~~read as follows:~~

12  
13 North Carolina Industrial Commission

14 Employer's Admission of Employee's Right to Permanent Partial Disability

15 (G.S. §97-31)

16  
17 IC File # \_\_\_\_\_

18 Emp. Code # \_\_\_\_\_

19 Carrier Code # \_\_\_\_\_

20 Carrier File # \_\_\_\_\_

21 Employer FEIN \_\_\_\_\_

22  
23 ~~The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act~~

24  
25 \_\_\_\_\_  
26 Employee's Name

27 \_\_\_\_\_  
28 Address

29 \_\_\_\_\_  
30 City State Zip

31 \_\_\_\_\_  
32 Home Telephone Work Telephone

33 Social Security Number: \_\_\_\_\_ Sex: ☐ M ☐ F Date of Birth: \_\_\_\_\_

34  
35 \_\_\_\_\_  
36 Employer's Name Telephone Number



Employer's Address City State Zip

Insurance Carrier

Carrier's Address City State Zip

Carrier's Telephone Number Carrier's Fax Number

~~WE, THE UNDERSIGNED, DO HEREBY AGREE AND STIPULATE AS FOLLOWS:~~

~~1. All the parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and \_\_\_\_\_ is the Carrier/Administrator for the Employer.~~

~~2. The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on \_\_\_\_\_.~~

~~3. The injury by accident or occupational disease resulted in the following injuries: \_\_\_\_\_.~~

~~4. The employee ☐ was ☐ was not paid for the 7 day waiting period.  
If not, was salary continued? ☐ yes ☐ no. Was employee paid for the date of injury? ☐ yes ☐ no~~

~~5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$ \_\_\_\_\_. This results in a weekly compensation rate of \$ \_\_\_\_\_.~~

~~6. The employee ☐ has ☐ has not returned full time to work for \_\_\_\_\_  
on \_\_\_\_\_, at an average weekly wage of \$ \_\_\_\_\_.~~

~~7. Claimant was released ☐ with permanent restrictions ☐ without permanent restrictions.~~

~~8. Permanent partial disability compensation will be paid to the injured worker as follows:  
\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_ % rating to \_\_\_\_\_ (body part)  
\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_ % rating to \_\_\_\_\_ (body part)  
\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_ % rating to \_\_\_\_\_ (body part)~~

~~Total amount of permanent partial disability compensation is \$ \_\_\_\_\_. Date of first payment: \_\_\_\_\_.~~

~~9. State any further matters agreed upon, including disfigurement, loss of teeth, election of temporary partial disability, \_\_\_\_\_ waiting \_\_\_\_\_ period \_\_\_\_\_ or \_\_\_\_\_ other: \_\_\_\_\_.~~

~~10. An overpayment is claimed in the amount of \$ \_\_\_\_\_. Overpayment was calculated as follows: \_\_\_\_\_.~~

~~If overpayment claimed, a Form 28B, Report of Compensation and Medical Compensation Paid, is attached. ☐ yes ☐ no~~

~~11. If applicable, the Second Injury Fund Assessment is \$ \_\_\_\_\_. A check ☐ is ☐ is not included.~~

~~12. IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of the~~

1 fee in advance, and if your award is \$3,000.00 or less, you are not responsible for any portion of the fee. If your award  
2 is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer agree  
3 otherwise.

4 Check one of the boxes below if the award is more than \$3,000.00:

5 The employer will deduct \$150.00 from the amount to be paid pursuant to this agreement.

6 The employee and employer have agreed that the employer will pay the entire fee.

7  
8 The undersigned hereby certify that the material medical and vocational reports related to the injury have been  
9 provided to the employee or the employee's attorney and have been filed with the Industrial Commission for  
10 consideration pursuant to G.S. 97-82(a) and Rule 11 NCAC 23A .0501.

11  
12 \_\_\_\_\_  
13 Name Of Employer Signature Title Date

14 \_\_\_\_\_  
15 Name Of Carrier/Administrator Signature Direct Phone Number Title Date

16  
17 By signing I enter into this agreement and certify that I have read the "Important Notices to Employee"  
18 printed on pages 2 and 3 of this form.

19  
20 \_\_\_\_\_  
21 Signature of Employee Address Date

22 \_\_\_\_\_  
23 Signature of Employee's Attorney Address \_\_\_\_\_ Date

24  
25 ☐ Check box if no attorney retained.

26  
27 North Carolina Industrial Commission

28 The Foregoing Agreement Is Hereby Approved:

29 \_\_\_\_\_  
30 Claims Examiner Date

31 \_\_\_\_\_  
32 Attorney's fee approved

33  
34 IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM  
35 PAYMENTS

Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.

#### ~~IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS~~

~~If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.~~

#### ~~IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS~~

~~If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must apply to the Industrial Commission in writing within two years, or your right to these benefits may be lost. To apply you may also use Industrial Commission 18M, Employee's Application for Additional Medical Compensation (G.S. 97-25.1), available at <http://www.ic.nc.gov/forms.html>.~~

#### ~~IMPORTANT NOTICE TO EMPLOYER~~

~~The employee must be provided a copy when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The employer or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.~~

#### ~~NEED ASSISTANCE?~~

~~If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.~~

~~Form 26A~~

~~11/2014~~

~~Self Insured Employer or Carrier Mail to:~~

~~NCIC—Claims Administration~~

~~4335 Mail Service Center~~

~~Raleigh, North Carolina 27699-4335~~

~~Main Telephone: (919) 807-2500~~

1 ~~Helpline: (800) 688-8349~~

2 ~~Website: <http://www.ic.nc.gov/>~~

3  
4 (a) ~~(Effective July 1, 2015)~~ The parties to a workers' compensation claim shall use the following Form 26A,  
5 Employer's Admission of Employee's Right to Permanent Partial Disability, for agreements regarding the employee's  
6 entitlement to and the employer's payment of compensation for permanent partial disability pursuant to G.S. 97-31.  
7 Additional issues agreed upon by the parties, such as election of payment of temporary partial disability pursuant to  
8 G.S. 97-30, may also be included on the form. This form is necessary to comply with Rule 11 NCAC 23A .0501,  
9 where applicable. The Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, shall  
10 read as follows:

11  
12 North Carolina Industrial Commission

13 Employer's Admission of Employee's Right to Permanent Partial Disability  
14 (G.S. §97-31)

15  
16 IC File # \_\_\_\_\_

17 Emp. Code # \_\_\_\_\_

18 Carrier Code # \_\_\_\_\_

19 Carrier File # \_\_\_\_\_

20 Employer FEIN \_\_\_\_\_

21  
22 The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

23  
24 \_\_\_\_\_  
25 Employee's Name

26  
27 Address

28  
29 City State Zip

30  
31 Home Telephone Work Telephone

32 Social Security Number: \_\_\_\_\_ Sex: ☐ M ☐ F Date of Birth: \_\_\_\_\_

33  
34  
35 Employer's Name Telephone Number

36  
37 Employer's Address City State Zip

Insurance Carrier

Carrier's Address City State Zip

Carrier's Telephone Number Carrier's Fax Number

WE, THE UNDERSIGNED, DO HEREBY AGREE AND STIPULATE AS FOLLOWS:

1. All the parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and \_\_\_\_\_ is the Carrier/Administrator for the Employer.

2. The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on \_\_\_\_\_.

3. The injury by accident or occupational disease resulted in the following injuries: \_\_\_\_\_.

4. The employee ☐ was ☐ was not paid for the 7 day waiting period.

If not, was salary continued? ☐ yes ☐ no. Was employee paid for the date of injury? ☐ yes ☐ no

5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$ \_\_\_\_\_. This results in a weekly compensation rate of \$ \_\_\_\_\_.

6. The employee ☐ has ☐ has not returned full time to work for \_\_\_\_\_ on \_\_\_\_\_, at an average weekly wage of \$ \_\_\_\_\_.

7. Claimant was released ☐ with permanent restrictions ☐ without permanent restrictions. If claimant was released with permanent restrictions and has returned to work for the employer of injury, attach a job description if known to exist.

8. Permanent partial disability compensation will be paid to the injured worker as follows:

\_\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_\_ % rating to \_\_\_\_\_ (body part)

\_\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_\_ % rating to \_\_\_\_\_ (body part)

\_\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_\_ % rating to \_\_\_\_\_ (body part)

Total amount of permanent partial disability compensation is \$ \_\_\_\_\_. Date of first payment: \_\_\_\_\_.

9. State any further matters agreed upon, including disfigurement, loss of teeth, election of temporary partial disability, \_\_\_\_\_ waiting \_\_\_\_\_ period \_\_\_\_\_ or \_\_\_\_\_ other: \_\_\_\_\_.

10. An overpayment is claimed in the amount of \$ \_\_\_\_\_. Overpayment was calculated as follows: \_\_\_\_\_.

If overpayment claimed, a Form 28B, Report of Compensation and Medical Compensation Paid, is attached. ☐ yes ☐ no

11. If applicable, the Second Injury Fund Assessment is \$ \_\_\_\_\_. A check ☐ is ☐ is not included.

The undersigned hereby certify that the material medical and vocational ~~reports~~ records related to the ~~injury~~ injury, including any job description known to exist if the employee has permanent restrictions and has returned to work for the employer of injury, have been provided to the employee or the employee's attorney and have been filed with the Industrial Commission for consideration pursuant to G.S. 97-82(a) and Rule 11 NCAC 23A .0501.

---

Name Of Employer	Signature	Title	Date
------------------	-----------	-------	------

---

Name Of Carrier/Administrator	Signature	Direct Phone Number	<u>Email Address</u>	Title	Date
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---

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on Page 3 of this form.

---

Signature of Employee	Address	<u>Email Address</u>	Date
-----------------------	---------	----------------------	------

---

Signature of Employee's Attorney	Address	<u>Email Address</u>	Date
----------------------------------	---------	----------------------	------

---

☐ Check box if no attorney retained.

North Carolina Industrial Commission

The Foregoing Agreement Is Hereby Approved:

---

Claims Examiner	Date
-----------------	------

---

Attorney's fee approved

#### IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS

Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.

#### IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

1  
2   IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL  
3   MEDICAL BENEFITS

4   If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several  
5   factors. Your right to payment of future medical compensation will terminate two years after your employer or  
6   carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think  
7   you will need future medical compensation, you must apply to the Industrial Commission in writing within two years,  
8   or your right to these benefits may be lost. To apply you may also use Industrial Commission 18M, Employee's  
9   Application for Additional Medical Compensation (G.S. 97-25.1), available at <http://www.ic.nc.gov/forms.html>.

10  
11   IMPORTANT NOTICE TO EMPLOYER

12   The employee must be provided a copy when the agreement is signed by the employee. Pursuant to Rule 11 NCAC  
13   23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or  
14   carrier/administrator must submit the agreement to the Industrial Commission, or show cause for not submitting the  
15   agreement. The employer or carrier/administrator shall file a Form 28B, Report of Compensation and Medical  
16   Compensation Paid, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.

17  
18   NEED ASSISTANCE?

19   If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at  
20   (800) 688-8349.

21  
22   Form 26A

23   ~~7/2015~~ 6/2020

24  
25   Self-Insured Employer or Carrier Mail to:

26   NCIC - Claims Administration

27   4335 Mail Service Center

28   Raleigh, North Carolina 27699-4335

29   Main Telephone: (919) 807-2500

30   Helpline: (800) 688-8349

31   Website: <http://www.ic.nc.gov/>

32  
33   (b)   A copy of the form described in Paragraph (a) of this Rule can be accessed at  
34   <http://www.ic.nc.gov/forms/form26a.pdf>. The form may be reproduced only in the format available at  
35   <http://www.ic.nc.gov/forms/form26a.pdf> and may not be altered or amended in any way.

36  
37   *History Note:*     *Authority G.S. 97-30; 97-31; 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77;*

1                   *Eff. November 1, 2014;*  
2                   *Recodified from 04 NCAC 10L .0103 Eff. June 1, 2018;*  
3                   *Amended Eff. December 1, 2020.*  
4  
5



## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23L .0103, Eff. February 1, 2021

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*On Pages 5, I am only asking – do you need to retain the information for injuries incurred before July 5, 1994?*

*On Page 6, line 8, to mirror Rule 23L .0101 should this state, “provided a copy of the form when the agreement...”?*

*On line 20, please change the date to February 2021, as that will be the effective date of this amendment.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020

11 NCAC 23L .0103 is amended as published in 34:20 NCR 1862-67 as follows:

**11 NCAC 23L .0103 FORM 26A – EMPLOYER'S ADMISSION OF EMPLOYEE'S RIGHT TO PERMANENT PARTIAL DISABILITY**

~~(a) (Effective until July 1, 2015) The parties to a workers' compensation claim shall use the following Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, for agreements regarding the employee's entitlement to and the employer's payment of compensation for permanent partial disability pursuant to G.S. 97-31. Additional issues agreed upon by the parties, such as election of payment of temporary partial disability pursuant to G.S. 97-30, may also be included on the form. This form is necessary to comply with Rule 11 NCAC 23A .0501, where applicable. The Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, shall read as follows:~~

~~North Carolina Industrial Commission  
Employer's Admission of Employee's Right to Permanent Partial Disability  
(G.S. §97-31)~~

~~IC File # \_\_\_\_\_  
Emp. Code # \_\_\_\_\_  
Carrier Code # \_\_\_\_\_  
Carrier File # \_\_\_\_\_  
Employer FEIN \_\_\_\_\_~~

~~The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act~~

~~\_\_\_\_\_  
Employee's Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
\_\_\_\_\_  
Home Telephone \_\_\_\_\_ Work Telephone \_\_\_\_\_  
Social Security Number: \_\_\_\_\_ Sex: ☐ M ☐ F Date of Birth: \_\_\_\_\_  
\_\_\_\_\_  
Employer's Name \_\_\_\_\_ Telephone Number \_\_\_\_\_  
\_\_\_\_\_  
Employer's Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
\_\_\_\_\_  
Insurance Carrier  
\_\_\_\_\_  
Carrier's Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
\_\_\_\_\_  
Carrier's Telephone Number \_\_\_\_\_ Carrier's Fax Number \_\_\_\_\_~~

~~WE, THE UNDERSIGNED, DO HEREBY AGREE AND STIPULATE AS FOLLOWS:~~

- ~~1. All the parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and \_\_\_\_\_ is the Carrier/Administrator for the Employer.~~
- ~~2. The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on \_\_\_\_\_.~~

3. ~~The injury by accident or occupational disease resulted in the following injuries:~~  
~~\_\_\_\_\_~~

4. ~~The employee ☒ was ☐ was not paid for the 7 day waiting period.~~  
~~If not, was salary continued? ☐ yes ☐ no. Was employee paid for the date of injury? ☐ yes ☒ no~~

5. ~~The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$ \_\_\_\_\_. This results in a weekly compensation rate of \$ \_\_\_\_\_.~~

6. ~~The employee ☒ has ☐ has not returned full time to work for \_\_\_\_\_ on \_\_\_\_\_, at an average weekly wage of \$ \_\_\_\_\_.~~

7. ~~Claimant was released ☐ with permanent restrictions ☒ without permanent restrictions.~~

8. ~~Permanent partial disability compensation will be paid to the injured worker as follows:~~  
~~\_\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_\_ % rating to \_\_\_\_\_ (body part)~~  
~~\_\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_\_ % rating to \_\_\_\_\_ (body part)~~  
~~\_\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_\_ % rating to \_\_\_\_\_ (body part)~~  
~~Total amount of permanent partial disability compensation is \$ \_\_\_\_\_. Date of first payment: \_\_\_\_\_.~~

9. ~~State any further matters agreed upon, including disfigurement, loss of teeth, election of temporary partial disability, \_\_\_\_\_ waiting \_\_\_\_\_ period \_\_\_\_\_ or \_\_\_\_\_ other: \_\_\_\_\_.~~

10. ~~An overpayment is claimed in the amount of \$ \_\_\_\_\_. Overpayment was calculated as follows: \_\_\_\_\_.~~  
~~If overpayment claimed, a Form 28B, Report of Compensation and Medical Compensation Paid, is attached. ☐ yes ☒ no~~

11. ~~If applicable, the Second Injury Fund Assessment is \$ \_\_\_\_\_. A check ☐ is ☒ is not included.~~

12. ~~IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of the fee in advance, and if your award is \$3,000.00 or less, you are not responsible for any portion of the fee. If your award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer agree otherwise.~~  
~~Check one of the boxes below if the award is more than \$3,000.00:~~  
~~☒ The employer will deduct \$150.00 from the amount to be paid pursuant to this agreement.~~  
~~☒ The employee and employer have agreed that the employer will pay the entire fee.~~

~~The undersigned hereby certify that the material medical and vocational reports related to the injury have been provided to the employee or the employee's attorney and have been filed with the Industrial Commission for consideration pursuant to G.S. 97-82(a) and Rule 11 NCAC 23A .0501.~~

\_\_\_\_\_  
Name Of Employer \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Name Of Carrier/Administrator \_\_\_\_\_ Signature \_\_\_\_\_ Direct Phone Number \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

~~By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on pages 2 and 3 of this form.~~

\_\_\_\_\_  
Signature of Employee \_\_\_\_\_ Address \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Signature of Employee's Attorney \_\_\_\_\_ Address \_\_\_\_\_ Date \_\_\_\_\_

~~☒ Check box if no attorney retained.~~

~~North Carolina Industrial Commission~~  
~~The Foregoing Agreement Is Hereby Approved:~~

\_\_\_\_\_  
Claims Examiner \_\_\_\_\_ Date \_\_\_\_\_

~~Attorney's fee approved~~

~~IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS~~  
~~Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.~~

~~IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS~~

~~If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.~~

~~IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS~~

~~If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must apply to the Industrial Commission in writing within two years, or your right to these benefits may be lost. To apply you may also use Industrial Commission 18M, Employee's Application for Additional Medical Compensation (G.S. 97-25.1), available at <http://www.ic.nc.gov/forms.html>.~~

~~IMPORTANT NOTICE TO EMPLOYER~~

~~The employee must be provided a copy when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The employer or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.~~

~~NEED ASSISTANCE?~~

~~If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.~~

~~Form 26A~~

~~11/2014~~

~~Self Insured Employer or Carrier Mail to:~~

~~NCIC - Claims Administration~~

~~4335 Mail Service Center~~

~~Raleigh, North Carolina 27699-4335~~

~~Main Telephone: (919) 807-2500~~

~~Helpline: (800) 688-8349~~

~~Website: <http://www.ic.nc.gov/>~~

~~(a) (Effective July 1, 2015) The parties to a workers' compensation claim shall use the following Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, for agreements regarding the employee's entitlement to and the employer's payment of compensation for permanent partial disability pursuant to G.S. 97-31. Additional issues agreed upon by the parties, such as election of payment of temporary partial disability pursuant to G.S. 97-30, may also be included on the form. This form is necessary to comply with Rule 11 NCAC 23A .0501, where applicable. The Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, shall read as follows:~~

North Carolina Industrial Commission  
Employer's Admission of Employee's Right to Permanent Partial Disability  
(G.S. §97-31)

IC File # \_\_\_\_\_  
Emp. Code # \_\_\_\_\_  
Carrier Code # \_\_\_\_\_  
Carrier File # \_\_\_\_\_  
~~Employer FEIN~~ \_\_\_\_\_

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Telephone \_\_\_\_\_ Work Telephone \_\_\_\_\_  
Last 4 digits of Social Security Number: \_\_\_\_\_ Sex: ☐ M ☐ F Date of Birth: \_\_\_\_\_

Employer's Name \_\_\_\_\_ Telephone Number \_\_\_\_\_

Employer's Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Insurance Carrier \_\_\_\_\_

Carrier's Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Carrier's Telephone Number \_\_\_\_\_ Carrier's Fax Number \_\_\_\_\_

WE, THE UNDERSIGNED, DO HEREBY AGREE AND STIPULATE AS FOLLOWS:

1. All the parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and \_\_\_\_\_ is the Carrier/Administrator for the Employer.

2. The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on \_\_\_\_\_.

3. The injury by accident or occupational disease resulted in the following injuries: \_\_\_\_\_.

4. The employee ☐ was ☐ was not paid for the 7 day waiting period.  
If not, was salary continued? ☐ yes ☐ no. Was employee paid for the date of injury? ☐ yes ☐ no

5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$ \_\_\_\_\_. This results in a weekly compensation rate of \$ \_\_\_\_\_.

6. The employee ☐ has ☐ has not returned full time to work for \_\_\_\_\_  
on \_\_\_\_\_, at an average weekly wage of \$ \_\_\_\_\_.

7. Claimant was released ☐ with permanent restrictions ☐ without permanent restrictions. If claimant was released with permanent restrictions and has returned to work for the employer of injury, attach a job description if known to exist.

8. Permanent partial disability compensation will be paid to the injured worker as follows:

\_\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_\_ % rating to \_\_\_\_\_ (body part)

\_\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_\_ % rating to \_\_\_\_\_ (body part)

\_\_\_\_\_ weeks of compensation at rate of \$ \_\_\_\_\_ per week for \_\_\_\_\_ % rating to \_\_\_\_\_ (body part)

Total amount of permanent partial disability compensation is \$ \_\_\_\_\_. Date of first payment: \_\_\_\_\_.

9. State any further matters agreed upon, including disfigurement, loss of teeth, election of temporary partial disability, waiting period or other:

10. An overpayment is claimed in the amount of \$. Overpayment was calculated as follows:

If overpayment claimed, a Form 28B, Report of Compensation and Medical Compensation Paid, is attached. ☐ yes ☐ no

11. If applicable, the Second Injury Fund Assessment is \$. A check ☐ is ☐ is not included.

The undersigned hereby certify that the material medical and vocational ~~reports~~ records related to the ~~injury~~ injury, including any job description known to exist if the employee has permanent restrictions and has returned to work for the employer of injury, have been provided to the employee or the employee's attorney and have been filed with the Industrial Commission for consideration pursuant to G.S. 97-82(a) and Rule 11 NCAC 23A .0501.

Name Of Employer	Signature	Title	Date
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Name Of Carrier/Administrator	Signature	Direct Phone Number	<u>Email Address</u>	Title	Date
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By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on Page 3 of this form.

Signature of Employee	Address	<u>Email Address</u>	Date
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Signature of Employee's Attorney	Address	<u>Email Address</u>	Date
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☐ Check box if no attorney retained.

North Carolina Industrial Commission  
The Foregoing Agreement Is Hereby Approved:

Claims Examiner	Date
-----------------	------

Attorney's fee approved

#### IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS

Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.

#### IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

#### IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must apply to the Industrial Commission in writing file an application for additional medical compensation pursuant to G.S. 97-25.1 within two years, or your right to these benefits may be lost. ~~To apply you may also use Industrial Commission 18M, Employee's Application for Additional Medical~~

1 ~~Compensation (G.S. 97-25.1), available at <http://www.ic.nc.gov/forms.html>. An application for additional medical~~  
2 ~~compensation may be made on a Form 18M Employee's Application for Additional Medical Compensation or by~~  
3 ~~written request. In the alternative, an employee may file an application for additional medical compensation by filing~~  
4 ~~a Form 33 Request that Claim be Assigned for Hearing pursuant to 11 NCAC 23A .0602. All Industrial Commission~~  
5 ~~forms are available at <https://www.ic.nc.gov/forms.html>.~~  
6

#### 7 IMPORTANT NOTICE TO EMPLOYER

8 The employee must be provided a copy when the agreement is signed by the employee. Pursuant to Rule 11 NCAC  
9 23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or  
10 carrier/administrator must submit the agreement to the Industrial ~~Commission. Commission, or show cause for not~~  
11 ~~submitting the agreement.~~ The employer or carrier/administrator shall file a Form 28B, Report of Compensation and  
12 Medical Compensation Paid, within 16 days after the last payment made pursuant to this agreement or be subject to a  
13 penalty.  
14

#### 15 NEED ASSISTANCE?

16 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at  
17 (800) 688-8349.  
18

#### 19 Form 26A

20 ~~7/2015 6/20208/2020~~

21  
22 Self-Insured Employer or Carrier, File via Electronic Document Filing Portal ("EDFP"); ~~Carrier Mail to:~~

23 ~~NCIC- Claims Administration~~

24 ~~4335 Mail Service Center~~

25 ~~Raleigh, North Carolina 27699-4335~~

26 ~~Main Telephone: (919) 807-2500~~

27 ~~Helpline: (800) 688-8349~~

28 ~~Website: <http://www.ic.nc.gov/>~~

29 ~~<https://www.ic.nc.gov/docfiling.html>~~

30 ~~Contact Information:~~

31 ~~NCIC- Claims Administration~~

32 ~~Telephone: (919) 807-2502~~

33 ~~Helpline: (800) 688-8349~~

34 ~~Website: <https://www.ic.nc.gov>~~  
35

36 (b) A copy of the form described in Paragraph (a) of this Rule can be accessed at  
37 ~~<http://www.ic.nc.gov/forms/form26a.pdf>~~ <https://www.ic.nc.gov/forms/form26a.pdf>. The form may be reproduced  
38 only in the format available at ~~<http://www.ic.nc.gov/forms/form26a.pdf>~~ <https://www.ic.nc.gov/forms/form26a.pdf> and  
39 may not be altered or amended in any way.  
40

41 *History Note: Authority G.S. 97-30; 97-31; 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77;*

42 *Eff. November 1, 2014;*

43 *Recodified from 04 NCAC 10L .0103 Eff. June 1, 2018;*

44 *Amended Eff. December 1, 2020;*

45 *Amended Eff. February 1, 2021.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Commission

RULE CITATION: 11 NCAC 23L .0105

**DEADLINE FOR RECEIPT: Friday, November 13, 2020**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*On line 22, what is a "reputable person closely connected"? Is this language from a statute or case law?*

*On line 25, and elsewhere the term is used, what is "fit and proper"? Again, is this from statute or case law?*

*On Page 2, line 17, can't the individuals fax and email this form as well, as per the amendment to Rule 23B .0104(a)?*

*And I take it the allowed courier service in Rule .0104(a) will be addressed by the provision of the physical address for hand delivery?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: October 30, 2020



1 11 NCAC 23L .0105 is amended as published in 34:20 NCR 1867-68 as follows:

2  
3 **11 NCAC 23L .0105 FORM T-42 – APPLICATION FOR APPOINTMENT OF GUARDIAN AD LITEM**

4 (a) Persons seeking to appear on behalf of an infant or incompetent shall apply on a Form T-42, Application for  
5 Appointment of Guardian Ad Litem, in accordance with Rule 11 NCAC 23B .0203. The Form T-42, Application for  
6 Appointment of Guardian Ad Litem, shall read as follows:

7  
8 North Carolina Industrial Commission  
9 IC File # TA- \_\_\_\_\_  
10 Application for Appointment of Guardian Ad Litem  
11 The use of this Form is required under Rule 11 NCAC 23B .0203

12  
13 \_\_\_\_\_ Plaintiff(s) v. \_\_\_\_\_ Defendant(s)

14  
15 To the North Carolina Industrial Commission:

16  
17 The undersigned \_\_\_\_\_ respectfully shows unto the North Carolina Industrial Commission that \_\_\_\_\_ is  
18 an \_\_ infant or \_\_ incompetent without general or testamentary guardian in this State, and that by reason thereof can  
19 bring an action only by a guardian ad litem; that the infant or incompetent has a cause of action against the defendants  
20 on account of the following matter and things:

21  
22 The undersigned is a reputable person closely connected with the infant or incompetent having the relationship with  
23 the infant or incompetent as follows: \_\_\_\_\_

24  
25 Wherefore, the undersigned prays the Commission that a fit and proper person be appointed Guardian Ad Litem for  
26 the infant or incompetent for the purpose of bringing on his or her behalf an action as above set out.

27 Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

28  
29 (Please complete page 2 of form)

30  
31 Order Appointing Guardian Ad Litem

32  
33 It appearing to the North Carolina Industrial Commission from the above application that \_\_\_\_\_ is  
34 an \_\_ infant or \_\_ incompetent having no general or testamentary guardian within this State and that said infant or  
35 incompetent appears to have a good cause of action against the defendant(s); and it further appearing to the  
36 Commission after due inquiry that \_\_\_\_\_ is a fit and proper person to be appointed guardian ad  
37 litem for the infant or incompetent for the purpose of bringing this action on his or her behalf;

38 It is therefore ordered that \_\_\_\_\_ be and is hereby appointed guardian ad litem of  
39 \_\_\_\_\_ to bring action on his or her behalf.

40  
41 This \_\_\_\_\_ day of \_\_\_\_\_.

42  
43 ~~Commissioner or Deputy Commissioner~~ Commissioner, Deputy Commissioner, or Executive Secretary

44  
45  
46 Please type or print:

47  
48 Full name and address of minor or incompetent:

49  
50 Birth date of minor: \_\_\_\_\_

51 Full name and address of proposed guardian ad litem:

1  
2 Important Information for Parties

3 Parties should take notice of the provisions set forth in Rule 11 NCAC 23B .0203.  
4

5 11 NCAC 23B .0203 Infants and Incompetents

6 (a) Persons seeking to appear on behalf of an infant or incompetent, in accordance with G.S. 1A-1, Rule 17, shall  
7 apply on a Form T-42 Application for Appointment of Guardian ad Litem. The Commission shall appoint a fit and  
8 proper person as guardian ad litem, if the Commission determines it to be in the best interest of the minor or  
9 incompetent. The Commission shall appoint the guardian ad litem only after due inquiry as to the fitness of the person  
10 to be appointed.

11 (b) The Commission may assess a fee to be paid to an attorney who serves as a guardian ad litem for actual services  
12 rendered upon receipt of an affidavit of actual time spent in representation of the minor or incompetent as part of the  
13 costs.  
14

15 **ATTORNEYS:** File via Electronic Document Filing Portal (“EDFP”)

16 <https://www.ic.nc.gov/docfiling.html>

17 **UNREPRESENTED PLAINTIFFS:** File via EDPF, <https://www.ic.nc.gov/docfiling.html> OR

18 Mail to: Industrial Commission Clerk’s Office, 1236 Mail Service Center, Raleigh NC 27699-1236 OR

19 File via hand delivery: Business days from 8 a.m. – 5 p.m., Dobbs Building, 6<sup>th</sup> floor, 430 N. Salisbury Street,  
20 Raleigh NC 27603.  
21

22 **SEND TO:** \_\_\_\_\_

23 ~~doctors@ic.nc.gov~~

24 ~~Office of the Clerk~~

25 ~~1236 Mail Service Center~~

26 ~~Raleigh, NC 27699-1236~~

27 ~~Main telephone: (919) 807-2500~~

28 ~~Helpline (800) 688-8349~~

29 ~~Website: <http://www.ic.nc.gov>~~  
30

31 FORM T-42  
32

33 (b) A copy of the form described in Paragraph (a) of this Rule can be accessed at ~~<http://www.ic.nc.gov/formt42.pdf>~~.

34 <https://www.ic.nc.gov/forms/formt-42.pdf>. The form shall be reproduced only in the format available at

35 ~~<http://www.ic.nc.gov/forms/formt42.pdf>~~ <https://www.ic.nc.gov/forms/formt-42.pdf> and shall not be altered or  
36 amended in any way.  
37

38 *History Note: Authority G.S. 143-291; 143-295; 143-300;*

39 *Eff. March 1, 2019;*

40 *Amended Eff. February 1, 2021.*