

Rule 11 NCAC 23A .0109 is adopted **with changes** as published in 33:06 NCR 569 as follows:

11 NCAC 23A .0109 CONTACT INFORMATION

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

(b) All attorneys of record with matters before the Commission shall inform the Commission in writing of any change in the attorney’s contact information via email to dockets@ic.nc.gov.

(c) All unrepresented persons or entities with matters **[pending]** before the Commission shall **inform [advise]** the Commission upon any change to their contact information in the following manner:

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

(2) All non-insured employers that are not represented by counsel shall inform the Commission of any change in contact information by filing a written notice via **[the Commission's Electronic Document Filing Portal ("EDFP"), electronic mail,]** **EDFP, email to dockets@ic.nc.gov,** facsimile, U.S. Mail, private courier service, or hand delivery.

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

Eff. January 1, 2019

Rule 11 NCAC 23A .0502 is amended **with changes** as published in 33:06 NCR 570–71 as follows:

11 NCAC 23A .0502 COMPROMISE SETTLEMENT AGREEMENTS

(a) The Commission shall not approve a compromise settlement agreement unless it contains the **following:** ~~following~~ information:

- (1) The employee knowingly and intentionally waives the right to further benefits under the Workers' Compensation Act for the injury that is the subject of this agreement.
- (2) ~~The employer, carrier, or administrator will pay all costs incurred. The parties' agreement, if any, as to the payment of the costs due to the Commission pursuant to 11 NCAC 23E .0203, and any mediation costs pursuant to 11 NCAC 23G .0107. If there is no agreement as to the payment of some or all of these costs, the compromise settlement agreement shall include the credits, including the amounts, to be applied by the employer or carrier against the settlement proceeds.~~
- (3) ~~No~~ **An affirmative statement that no** rights other than those arising under the provisions of the Workers' Compensation Act are compromised or released by this agreement.
- (4) ~~The Whether the employee has, or has not, returned to work. a job or position at the same or a greater average weekly wage as was being earned prior to the injury or occupational disease.~~
- (5) ~~If the employee has returned to work, whether the employee is earning the same or greater average weekly wage.~~
- (5)(6) ~~Where If the employee has not returned to work a job or position at the same or a greater wage at a lower average weekly wage, as was being earned prior to the injury or occupational disease, the employee has, or has not, returned to some other job or position and, if so, the a description of the particular specific job or position, the name of the employer, and the average weekly wage earned. This Subparagraph does not apply where the employee or counsel certifies that partial wage loss due to an injury or occupational disease is not being claimed. if the employee is represented by counsel or if the employee certifies that partial wage loss due to an injury or occupational disease is not being claimed.~~
- (6)(7) ~~Where If the employee has not returned to work, a job or position at the same or a greater average weekly wage as was being earned prior to the injury or occupational disease, a summary of the employee's age, educational level, past vocational training, past work experience, and any emotional, mental, or physical impairment that predates the current injury or occupational disease. This Subparagraph does not apply upon a showing of: if:~~
 - (A) it places an unreasonable burden upon the parties;
 - (B) the employee is represented by counsel; or
 - (C) ~~even if the employee is not represented by counsel, where~~ the employee or counsel certifies that total wage loss due to an injury or occupational disease is not being claimed.

(b) No compromise settlement agreement shall be considered by the Commission unless the following requirements are met:

- (1) The relevant medical, vocational, and rehabilitation reports known to exist, including those pertinent to the employee's future earning capacity, are submitted with the agreement to the Commission by the employer, carrier, administrator, or the attorney for the employer.
- (2) ~~The parties and all attorneys of record~~ employee, the employee's attorney of record, if any, and an attorney of record or other representative who has been given the authority to sign for the employer, carrier and administrator, have signed the agreement.
- (3) In a claim where liability is admitted or otherwise has been established, the employer, carrier, or administrator has undertaken to pay all medical expenses for the compensable injury to the date of the settlement agreement.
- (4) In a claim in which the employer, carrier, or administrator has not agreed to pay all medical expenses of the employee related to the injury up to the date of the settlement agreement, the ~~The~~ settlement agreement contains a list of all known medical expenses of the employee related to the injury to the date of the settlement ~~agreement.~~ agreement, including medical expenses that the employer, carrier, or administrator disputes, when the employer or insurer has not agreed to pay all medical expenses of the employee related to the injury up to the date of the settlement agreement. This list shall of known medical expenses shall include:
- (A) All [known medical] expenses that have been paid by the employer, carrier, or administrator;
- (B) All [known medical] expenses that the employer, carrier, or administrator disputes;
- (C) All [known medical] expenses that have been paid by the employee;
- (D) All [known medical] expenses that have been paid by a health benefit plan;
- (E) All [known] unpaid [medical] expenses that will be paid by the employer, carrier, or administrator; and
- (F) All [known] unpaid [medical] expenses that will be paid by the employee.
- ~~(5) The settlement agreement contains a list of the unpaid medical expenses, if known, that will be paid by the employer, carrier, or administrator, if there are unpaid medical expenses that the employer or carrier has agreed to pay. The settlement agreement also contains a list of unpaid medical expenses, if known, that will be paid by the employee, if there are unpaid medical expenses that the employee has agreed to pay.~~
- ~~(6)~~(5) The settlement agreement provides that a party who has agreed to pay a disputed unpaid medical expense will notify ~~in writing~~ the unpaid health care provider in writing of the party's responsibility to pay the unpaid medical expense. Other unpaid health care providers will be notified in writing of the completion of the settlement by the party specified in the settlement agreement:
- (A) when the employee or the employee's attorney has notified the unpaid health care provider in writing under G.S. 97-90(e) not to pursue a private claim against the employee for the costs of medical treatment, treatment; or

(B) when the unpaid health care provider has notified ~~in writing the employee or~~ the employee's attorney in writing of its claim for payment for the costs of medical treatment and has requested notice of a settlement.

~~(7)(6)~~ Any obligation of any party to pay an unpaid disputed medical expense pursuant to a settlement agreement does not require payment of any medical expense in excess of the maximum allowed under G.S. 97-26.

~~(8)(7)~~ The settlement agreement contains a finding that the positions of the parties to the agreement are reasonable as to the payment of medical expenses.

(c) When a settlement has been reached, the written agreement shall be submitted to the Commission upon execution in accordance with Rule .0108 of this Subchapter. All compromise settlement agreements shall be ~~directed to the Office of the Executive Secretary for review or distribution~~ distributed for review in accordance with Paragraphs (a) through (c) of Rule .0609 of this Subchapter. Any changes or addenda to the agreement submitted to the Commission shall be served upon the opposing party contemporaneously with submission to the Commission.

(d) ~~Once a compromise settlement agreement has been approved by the Commission, the~~ The employer, carrier, or administrator shall furnish an executed copy of the agreement to the employee's attorney of record or the employee, if unrepresented.

(e) An employee's attorney seeking ~~[that] who~~ seeks fees in connection with a ~~Compromise Settlement Agreement~~ compromise settlement agreement shall submit to the Commission a copy of the ~~[attorney's] fee agreement [between the employee and the employee's previous attorney, then] [with the] employee, client. [at the time of submission of a compromise settlement agreement, the employee's current attorney shall advise the Commission of the employee's fee agreement with the previous attorney and note whether an agreement has been reached between counsel as to the division of attorney's fees.]~~ Further, if the employee's attorney is aware of a fee being claimed by a prior attorney for the employee, the employee's attorney shall advise the Commission at the time of the submission of a compromise settlement agreement whether an agreement has been reached with the prior attorney regarding a division of the fee and, if so, the division proposed.

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

Eff. January 1, 1990;

Amended Eff. February 1, 2016; November 1, 2014; August 1, 2006; June 1, 2000; March 15, 1995;

Recodified from 04 NCAC 10A .0502 Eff. June 1, 2018;

Amended Eff. January 1, 2019.

Rule 11 NCAC 23A .0604 is amended with changes as published in 33:06 NCR 572 as follows:

11 NCAC 23A .0604 APPOINTMENT OF GUARDIAN AD LITEM

(a) Minors or incompetents incompetent individuals may bring an action only through their guardian *ad litem*. Upon the written application on a Form 42 *Application for Appointment of Guardian ~~Ad Litem~~, Ad Litem*, the Commission shall appoint the person as guardian *ad litem*, if the Commission determines it to be in the best interest of the minor or incompetent incompetent individual. The Commission shall appoint the guardian *ad litem* only after due inquiry as to the fitness of the person to be appointed.

(b) No compensation due or owed to ~~the minor or an incompetent~~ individual shall be paid directly to the guardian *ad litem*. ~~litem, unless the guardian ad litem has authority to receive the money pursuant to~~ a federal or state court order. ~~[an Order from the General Courts of Justice.]~~ No compensation due or owed to a minor shall be paid directly to the guardian *ad litem*, except that a parent, legal guardian, or legal custodian may receive compensation on behalf of a minor in his or her capacity as parent, legal guardian, or legal custodian.

(c) The Commission may assess a fee to be paid by the employer or the insurance carrier to an attorney who serves as a guardian *ad litem* for actual services rendered upon receipt of an affidavit of actual time spent in representation of the minor or incompetent individual as part of the costs.

History Note: Authority G.S. 97-50; 97-79(e); 97-80(a); 97-80(b); 97-91;

Eff. January 1, 1990;

Amended Eff. November 1, 2014; January 1, 2011; June 1, 2000; March 15, 1995;

Recodified from 04 NCAC 10A .0604 Eff. June 1, 2018;

Amended Eff. January 1, 2019.

Rule 11 NCAC 23A .0609 is amended **with changes** as published in 33:06 NCR 572–73 as follows:

11 NCAC 23A .0609 MOTIONS PRACTICE ~~IN CONTESTED CASES~~

(a) Motions and responses before a Deputy Commissioner:

(1) in cases that are currently calendared for hearing before a Deputy Commissioner shall be filed in accordance with Rule .0108 of this Subchapter.

(2) to reconsider or amend an Opinion and Award, made prior to giving notice of appeal to the Full Commission, shall be addressed to the Deputy Commissioner who authored the Opinion and Award and filed in accordance with Rule .0108 of this Subchapter.

(b) Motions and responses shall be filed with the Office of the Executive Secretary in accordance with Rule .0108 of this Subchapter:

(1) when a case is not calendared before a Deputy Commissioner;

(2) once a case has been continued or removed from a Deputy Commissioner's calendar; or

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

(c) Motions and responses before the Full Commission:

(1) in cases calendared for hearing before the Full Commission shall be addressed to the Chair of the Full Commission panel and filed in accordance with Rule .0108 of this Subchapter.

(2) filed after notice of appeal to the Full Commission has been given but prior to the calendaring of the case shall be addressed to the Chair of the Commission and filed in accordance with Rule .0108 of this Subchapter.

(3) in cases continued from the Full Commission hearing docket, shall be addressed to the Chair of the panel of Commissioners who ordered the continuance and filed in accordance with Rule .0108 of this Subchapter.

(4) filed after the filing of an Opinion and Award by the Full Commission but prior to giving notice of appeal to the Court of Appeals or the expiration of the period allowed to give notice of appeal to the Court of Appeals shall be addressed to the Commissioner who authored the Opinion and Award and filed in accordance with Rule .0108 of this Subchapter.

(d) Motions requesting an award of attorney's fees from ongoing compensation pursuant to G.S. 97-90 that are not required to be filed with a Deputy Commissioner or the Full Commission pursuant to Paragraphs (a) and (c) of this Rule shall be filed with the Commission's Claims Administration Section in accordance with Rule .0108 of this Subchapter.

(e) All motions and responses thereto, including requests for extensions of time and requests to withdraw motions, shall include a caption containing the Industrial Commission file number(s), party names, and a title identifying the nature of the motion or response. Motions and responses set forth in the body of electronic mail correspondence or contained in a brief will not be accepted for filing by the Commission. This Paragraph does not apply to parties without legal representation.

(f) A motion shall state with particularity the grounds on which it is based, the relief sought, and the opposing party's position, if known. ~~[position or that there has been a reasonable attempt to contact the opposing party and ascertain its position.]~~ and any effort made by the moving party to resolve the issue in dispute before filing of the motion. Service shall be made on all opposing attorneys of record, or on all opposing parties if not represented.

(g) Motions to continue or remove a case from the hearing calendar on which the case is set shall be made as far ~~much~~ in advance as possible of the scheduled hearing and may be made in written or oral form. In all cases, the moving party shall provide the basis for the motion and state that the other parties have been advised of the motion and relate the ~~position, if known,~~ position of the other parties regarding the ~~motion.~~ motion, or that there has been a reasonable attempt to contact the opposing party and ascertain its position regarding the motion. ~~Oral motions shall be followed with a written motion from the moving party.~~

(h) Oral motions shall be followed with a written motion from the moving party, if requested by a hearing ~~officer.~~ officer considering the interests of justice.

(i) The responding party to a motion shall have 10 days after a motion is served during which to file and serve copies of a response in opposition to the motion. The Commission may shorten or extend the time for responding to any motion in the interests of justice or to promote judicial economy. Parties in agreement may submit a written stipulation to a single extension of time for responding to any motion, except for medical motions pursuant to Rule .0609A of this Section. The parties submitting a stipulation shall agree to an extension of a reasonable time, not to exceed 30 days.

(j) ~~A party who has not received actual notice of a motion or who has not filed a response at the time action is taken and who is adversely affected by the action may request that it be reconsidered, vacated, or modified. Motions shall be determined~~ ruled upon without oral argument unless the Commission determines that oral argument is necessary for a complete understanding of the issues.

~~(i) Where correspondence relative to a case before the Commission is sent to the Commission, copies of such correspondence shall be contemporaneously sent by the same method of transmission to the opposing party or, if represented, to opposing counsel. Written communications, whether addressed directly to the Commission or copied to the Commission, may not be used as an opportunity to introduce new evidence or to argue the merits of the case, with the exception of the following:~~

(1) ~~written communications, such as a proposed order or legal memorandum, prepared pursuant to the Commission's instructions;~~

(2) ~~written communications relative to emergencies, changed circumstances, or scheduling matters that may affect the procedural status of a case such as a request for a continuance due to the health of a litigant or an attorney;~~

(3) ~~written communications sent to the tribunal with the consent of the opposing lawyer or opposing party, if unrepresented; and~~

(4) ~~any other communication permitted by law or the Rules of the Commission.~~

(k) All written motions and responses thereto shall include a proposed Order in Microsoft Word format to be considered by the Commission. The proposed Order shall include:

1 (1) the ~~IC File Number;~~ Industrial Commission file number(s);
2 (2) the case caption;
3 (3) the subject of the proposed Order;
4 (4) the procedural posture; and
5 (5) the party appearances or contact information. If a party is represented by counsel, then the
6 appearance ~~[should]~~ shall include the attorney and firm name, email address, telephone number, and fax number. If a
7 party is unrepresented, then the proposed Order ~~[should]~~ shall include the party's email address, telephone number,
8 and fax number, if available.

9
10 History Note: Authority G.S. 97-79(b); 97-80(a); 97-84; 97-91;
11 Eff. January 1, 1990;
12 Amended Eff. February 1, 2016; November 1, 2014; June 1, 2000; March 15, 1995;
13 Recodified from 04 NCAC 10A .0609 Eff. June 1, 2018;
14 Amended Eff. January 1, 2019.

Rule 11 NCAC 23A .0617 is amended **with changes** as published in 33:06 NCR 573 as follows:

11 NCAC 23A .0617 ATTORNEYS RETAINED FOR PROCEEDINGS

(a) Any attorney who is retained by a party in a proceeding before the Commission shall comply with the applicable rules of the North Carolina State Bar. A copy of a notice of representation shall be served upon all other counsel and all unrepresented ~~parties~~ parties, and submitted to the Commission in accordance with Rule .0108 of this Subchapter.

Thereafter, all notices required to be served on a party shall be served upon the attorney. No direct contact or communication concerning contested matters may be made with a represented party by the opposing party or any person on ~~its~~ his or her behalf, without the attorney's permission except as permitted by G.S. 97-32 or other applicable law.

(b) Any attorney who wishes to withdraw from representation in a proceeding before the Commission shall file with the Commission, in writing, a Motion to Withdraw that contains a statement of reasons for the request and that the request has been served on the client. The attorney shall make reasonable efforts to ascertain the ~~last known address~~ last known contact information as defined in Rule .0109 of this Subchapter of the client and shall include this information in the motion. A Motion to Withdraw before an award is made shall state whether the withdrawing attorney requests an attorney's fee from the represented party once an award of compensation is made or approved.

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

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

(e) Motions to Withdraw shall be submitted in accordance with Rule .0108 of this Subchapter. The Motion to Withdraw shall include a proposed Order in Microsoft Word format that includes, in the appearances, the last known address of any pro se party or the contact information **as defined in Rule .0109 of this Subchapter** of new counsel if such counsel has been retained. The proposed Order shall include fax numbers for all parties, if known.

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

Eff. January 1, 2011;

Amended Eff. February 1, 2016; November 1, 2014;

Recodified from 04 NCAC 10A .0617 Eff. June 1, 2018;

Amended Eff. January 1, 2019.

Rule 11 NCAC 23A .0619 is amended with changes as published in 33:06 NCR 573–74 as follows:

11 NCAC 23A .0619 FOREIGN LANGUAGE AND SIGN LANGUAGE INTERPRETERS

(a) When a person who does not speak or understand the English language or who is speech or hearing impaired is either called to testify in a hearing, other than in an informal hearing conducted pursuant to G.S. 97-18.1, or appears unrepresented before the Full Commission for an oral argument, the person, whether a party or a witness, shall be assisted by a qualified ~~foreign language interpreter.~~ interpreter upon request. For purposes of this Rule, “language” means foreign language or sign language.

(b) To qualify as a foreign language interpreter, a person shall possess sufficient experience and education, or a combination of experience and education, speaking and understanding English and the foreign language to be interpreted, to qualify as an expert witness pursuant to G.S. 8C-1, Rule 702. For Spanish language interpretation, the interpreter must be “Level A” certified by the North Carolina Administrative Office of the Courts. A person qualified as an interpreter under this Rule shall not be interested in the claim and shall make a declaration under oath or affirmation to interpret accurately, truthfully and accurately and truthfully, meaning without any additions or deletions, all questions propounded to the witness and all responses thereto.

(c) To qualify as a sign language interpreter, a person shall possess a license from the North Carolina Interpreter and Transliterator Licensing Board, under Chapter 90D of the North Carolina General Statutes. [It is preferred that sign language interpreters obtain an SC:L legal certification.]

~~(e)~~ (d) Any party who is unable to speak or understand [English.] or who is speech or hearing impaired, or who intends to call as a witness a person who is unable to speak or understand English ~~English~~, or who is speech or hearing impaired, shall so notify the Commission and the opposing party, in writing, not less than 21 days prior to the date of the hearing. The notice shall state the language(s) that shall be interpreted for the Commission.

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

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

~~(f)~~ (g) Foreign language interpreters shall abide by the Code of Conduct and Ethics of Foreign Language Interpreters and Translators, contained in Part 4 of Policies and Best Practices for the Use of Foreign Language Interpreting and Translating Services in the North Carolina Court System and promulgated by the North Carolina Administrative Office of the Courts, and shall interpret, as word for word as is practicable, without editing, commenting, or summarizing, testimony or other communications. The Code of Conduct and Ethics of Foreign Language Interpreters

1 and Translators is hereby incorporated by reference and includes subsequent amendments and editions. A copy may
2 be obtained at no charge from the North Carolina Administrative Office of the Court's website,
3 <http://www.nccourts.org/Citizens/CPrograms/Foreign/Documents/guidelines.pdf>,
4 [https://www.nccourts.gov/assets/inline-](https://www.nccourts.gov/assets/inline-files/02_2_NC_Standards_for_Language_Access_0.pdf?NhuszCAEVfS8KkdLetH97b9I4NRBcd.f)
5 [files/02_2_NC_Standards_for_Language_Access_0.pdf?NhuszCAEVfS8KkdLetH97b9I4NRBcd.f](https://www.nccourts.gov/assets/inline-files/02_2_NC_Standards_for_Language_Access_0.pdf?NhuszCAEVfS8KkdLetH97b9I4NRBcd.f), or upon request,
6 at the offices of the Commission, located in the Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina,
7 27603, between the hours of 8:00 a.m. and 5:00 p.m.
8 (h) Sign language interpreters shall interpret, as word for word as is practicable, without editing, commenting, or
9 summarizing, testimony or other communications. Sign language interpreters shall abide by the ethical standards
10 communicated in the training required by G.S. 90D-8.

11
12 *History Note: Authority G.S. 97-79(b); 97-80(a);*

13 *Eff. November 1, 2014.*

14 *Recodified from 04 NCAC 10A .0619 Eff. June 1, 2018*

15 *Amended Eff. January 1, 2019.*

Rule 11 NCAC 23A .0620 is adopted **with changes** as published in 33:06 NCR 574 as follows:

11 NCAC 23A .0620 WRITTEN COMMUNICATIONS WITH THE COMMISSION

(a) This Rule ~~applies~~ **shall apply** to written communications ~~[relative]~~ **related** to a case before the Commission that are not governed by statute or another ~~[Rule]~~ **rule** in this Subchapter.

(b) Written communications sent to the Commission shall be contemporaneously sent by the same method of transmission, where possible, to the opposing party or, if represented, to opposing counsel.

(c) Written communications, whether addressed directly to the Commission or copied to the Commission, ~~may~~ **shall** not be used as an opportunity to introduce new evidence or to argue the merits of the case.

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

Eff. January 1, 2019.

1 Rule 11 NCAC 23A .0701 is amended **with changes** as published in 33:06 NCR 574–577 as follows:

2
3 **11 NCAC 23A .0701 REVIEW BY THE FULL COMMISSION**

4 (a) Notice of Appeal. Application for review shall be made to the Commission within 15 days from the date when
5 notice of the Deputy Commissioner's Opinion and Award **shall have been was** given. A letter **expressing a request**
6 **requesting for** review **is shall be** considered an application for review to the Full Commission within the meaning of
7 G.S. 97-85, provided that the letter specifies the Order or Opinion and Award from which appeal is taken.

8 (b) Motions to Reconsider to the Deputy Commissioner. A motion to reconsider or to amend the decision of a Deputy
9 Commissioner shall be filed with the Deputy Commissioner within 15 days of receipt of notice of the award. The
10 time for filing a request for review from the decision of a Deputy Commissioner under the rules in this Subchapter
11 shall be tolled until a motion to reconsider or to amend the decision has been ruled upon by the Deputy Commissioner.
12 However, if either party files a letter requesting review of the decision as set forth in Paragraph (a) of this Rule after
13 a motion to reconsider or to amend has been filed with the Deputy Commissioner, jurisdiction shall be transferred to
14 the Full Commission. Any party who had a pending motion to reconsider or amend the decision of the Deputy
15 Commissioner may file a motion with the Chair of the Commission requesting remand to the Deputy Commissioner
16 with whom the motion was pending. Upon remand, jurisdiction ~~[will]~~ **shall** be transferred to the Deputy
17 Commissioner. Following the Deputy Commissioner's ruling on the motion to reconsider or amend the decision, a
18 party requesting review of the initial decision of the Deputy Commissioner or the ruling on the motion to reconsider
19 or amend the decision shall file a letter requesting review as set forth in Paragraph (a) of this Rule to transfer
20 jurisdiction of the matter back to the Full Commission.

21 ~~(b)(c)~~ Acknowledging Receipt; Form 44; Joint Certification. ~~After receipt of a request for review, the~~ The
22 Commission shall acknowledge the request for review by letter. The Commission shall prepare the official transcript
23 and ~~exhibits~~ exhibits, if any, and provide them along with a Form 44 *Application for Review* to the parties involved in
24 the appeal at no charge within 30 days of the acknowledgement letter. ~~The official transcript and exhibits and a Form~~
25 ~~44 Application for Review shall be provided to the parties electronically, where possible. In such cases, the~~
26 ~~Commission shall send an e-mail to the parties containing a link to the secure File Transfer Protocol (FTP) site where~~
27 ~~the official transcript and exhibits may be downloaded. The e-mail shall also provide instructions for the submission~~
28 ~~of the parties' acknowledgement of receipt of the Form 44 Application for Review and the official transcript and~~
29 ~~exhibits to the Commission. Parties represented by counsel shall sign a joint certification acknowledging receipt of~~
30 ~~the Form 44 Application for Review and the official transcript and exhibits and submit the certification within ten days~~
31 ~~of receipt of the Form 44 Application for Review and the official transcript and exhibits. The certification shall stipulate~~
32 ~~the date the Form 44 Application for Review and the official transcript and exhibits were received by the parties and~~
33 ~~shall note the date the appellant's brief is due. The Commission shall save a copy of the parties' acknowledgements in~~
34 ~~the file for the claim to serve as record of the parties' electronic receipt of the Form 44 Application for Review and the~~
35 ~~official transcript and exhibits. In cases where it is not possible to provide a party with the official transcript and~~
36 ~~exhibits electronically, the Commission shall provide the official transcript and exhibits and a Form 44 Application~~
37 ~~for Review via certified U.S. Mail, with return receipt requested. The Commission shall save a copy of the return~~

1 ~~receipt to serve as record of the party's receipt of the official transcript and exhibits and Form 44 *Application for*~~
2 ~~*Review*.~~

3 (1) The official transcript and exhibits and a Form 44 *Application for Review* shall be provided
4 electronically to parties represented by counsel. In such cases, the Commission shall send an [e-
5 mail] email to the parties with directions on how to obtain an electronic copy of the official transcript
6 and exhibits. The e-mail shall also provide instructions for the submission of the parties'
7 acknowledgement of receipt of the Form 44 *Application for Review* and the official transcript and
8 exhibits to the Commission. Parties represented by counsel shall sign a joint certification
9 acknowledging receipt of the Form 44 *Application for Review* and the official transcript and exhibits
10 and submit the certification within [ten] 10 days of receipt of the Form 44 *Application for Review*
11 and the official transcript and exhibits. The certification shall stipulate the date the Form 44
12 *Application for Review* and the official transcript and exhibits were received by the parties and shall
13 note the date the appellant's brief is due. The Commission shall save a copy of the parties'
14 acknowledgements in the file for the claim to serve as record of the parties' electronic receipt of the
15 Form 44 *Application for Review* and the official transcript and exhibits.

16 (2) In cases where it is not possible to provide a party with the official transcript and exhibits
17 electronically, the Commission shall serve the official transcript and exhibits and a Form 44
18 *Application for Review* via any class of U.S. Mail that is fully prepaid.

19 ~~(e) A motion to reconsider or to amend the decision of a Deputy Commissioner shall be filed with the Deputy~~
20 ~~Commissioner within 15 days of receipt of notice of the award with a copy to the Docket Director. The time for filing~~
21 ~~a request for review from the decision of a Deputy Commissioner under the rules in this Subchapter shall be tolled~~
22 ~~until a motion to reconsider or to amend the decision has been ruled upon by the Deputy Commissioner. However, if~~
23 ~~either party files a letter requesting review as set forth in Paragraph (a) of this Rule, jurisdiction shall be transferred~~
24 ~~to the Full Commission, and the Docket Director shall notify the Deputy Commissioner. Upon transfer of jurisdiction~~
25 ~~to the Full Commission, any party who had a pending motion to reconsider or amend the decision of the Deputy~~
26 ~~Commissioner may file a motion with the Chairman of the Commission requesting remand to the Deputy~~
27 ~~Commissioner with whom the motion was pending. Within the Full Commission's discretion, the matter may be so~~
28 ~~remanded. Upon the Deputy Commissioner's ruling on the motion to reconsider or amend the decision, either party~~
29 ~~may thereafter file a letter requesting review of the Deputy Commissioner's decision as set forth in Paragraph (a) of~~
30 ~~this Rule.~~

31 (d) Appellant's Form 44. The appellant shall submit a Form 44 *Application for Review* upon which appellant shall
32 state stating with particularity all assignments of error and grounds for review, the grounds for the review. The grounds
33 shall be stated with particularity, including the errors allegedly committed by the Commissioner or Deputy
34 Commissioner and, when applicable, including, where applicable, the pages in the transcript or the record on which
35 the alleged errors are shall be recorded. Grounds for review and assignments of error not set forth in the Form 44
36 *Application for Review* are deemed abandoned, and argument thereon shall not be heard before the Full Commission.

1 (e) Timing Requirements. The appellant shall file the Form 44 *Application for Review* and brief in support of the
2 grounds for review with the Commission with a certificate of service on the appellee within 25 days after receipt of
3 the transcript or receipt of notice that there will be no transcript. The appellee shall have 25 days from service of the
4 Form 44 *Application for Review* and appellant's brief to file a responsive brief with the Commission. The appellee's
5 brief shall include a certificate of service on the appellant. When an appellant fails to file a brief, an appellee shall
6 file its brief within 25 days after the appellant's time for filing the Form 44 *Application for Review* and appellant's
7 brief has expired. A party who fails to file a brief shall not participate in oral argument before the Full Commission.
8 If multiple parties request review, each party shall file an appellant's brief and appellee's brief on the schedule set forth
9 in this Paragraph. If the matter has not been calendared for hearing, ~~any a party may file with the Docket Director~~
10 obtain a single extension of time not to exceed 15 days by filing a written stipulation pursuant to Rule .0108 of this
11 Subchapter. to a single extension of time not to exceed 15 days. In no event shall the cumulative extensions of time
12 exceed 30 days.

13 (f) Brief Requirements. Briefs to the Full Commission shall not exceed 35 pages, excluding attachments. In no event
14 shall attachments be used to circumvent the 35-page ~~limit.~~ limit or as a means to submit documents into evidence.
15 No page limit applies to the length of attachments. Briefs shall be prepared using a 12 point proportional font and
16 serif typeface, shall be double spaced, and shall be prepared with non-justified right margins. Each page of the brief
17 shall be numbered at the bottom of the page. When a party quotes or paraphrases testimony or other evidence from
18 the appellate record in the party's brief, the party shall include, at the end of the sentence in the brief that quotes or
19 paraphrases the testimony or other evidence, a parenthetical entry that designates the source of the quoted or paraphrased
20 material and the page number within the applicable source. The party shall use "T" to refer to the transcript of hearing
21 testimony and "Ex" for exhibit. For example, if a party quotes or paraphrases material located in the hearing transcript
22 on page 11, the party shall use the following format "(T 11)," and if a party quotes or paraphrases material located in
23 an exhibit on page 12, the party shall use the following format "(Ex 12)." When a party quotes or paraphrases testimony
24 in the transcript of a deposition in the party's brief, the party shall include the last name of the deponent and the page
25 on which such testimony is located. For example, if a party quotes or paraphrases the testimony of John Smith, located
26 on page 11 of such deposition, the party shall use the following format "(Smith 11)." Parties shall not discuss matters
27 outside the record, assert personal opinions or relate personal experiences, or attribute wrongful acts or motives to
28 opposing counsel or members of the Commission.

29 (g) Reply Briefs. Within 10 days of service of the appellee's brief, a party may request by motion to file a reply brief.
30 The motion shall not contain a reply brief. A reply brief may only be filed if ordered by the Full Commission. Reply
31 briefs shall not exceed 15 pages, excluding attachments. Reply briefs shall be prepared in accordance with the
32 requirements of Paragraph (f) of this Rule. Any reply brief filed shall be limited to a concise rebuttal of arguments set
33 out in the appellee's brief, and shall not reiterate arguments set forth in the appellant's principal brief.

34 (h) Citations. Case citations shall be to the North Carolina Reports, the North Carolina Court of Appeals Reports, or
35 the North Carolina Reporter, and when possible, to the South Eastern Reporter. An unpublished appellate decision
36 does not constitute controlling legal authority. If a party believes that an unpublished opinion has precedential or
37 persuasive value to a material issue in the case and that there is no published opinion that would serve as well, the

1 party may cite the unpublished opinion. When citing an unpublished opinion, a party shall indicate the opinion's
2 unpublished status. If no reporter citation is available at the time a brief is filed, the party citing to the case shall attach
3 a copy of the case to its brief.

4 ~~(f)(i) Motions.~~ After a request for review has been submitted to the Full Commission, any motions related to the
5 issues for review shall be filed with the Full Commission, with service on the other parties. Motions related to the
6 issues for review including motions for new trial, to supplement the record, including documents from offers of proof,
7 or to take additional evidence, filed during the pendency of a request for review to the Full Commission, shall be
8 ~~argued before~~ considered by the Full Commission at the time of ~~the hearing of the request for review,~~ review of the
9 appeal, except motions related to the official transcript and exhibits. The Full Commission, for good cause shown,
10 may rule on such motions prior to oral argument.

11 ~~(g) Case citations shall be to the North Carolina Reports, the North Carolina Court of Appeals Reports, or the North~~
12 ~~Carolina Reporter, and when possible, to the South Eastern Reporter. If no reporter citation is available at the time a~~
13 ~~brief is filed or if an unpublished decision is referenced in the brief, the party citing to the case shall attach a copy of~~
14 ~~the case to its brief. Counsel shall not discuss matters outside the record, assert personal opinions or relate personal~~
15 ~~experiences, or attribute wrongful acts or motives to opposing counsel or members of the Commission.~~

16 ~~(h) Upon the request of a party or on its own motion, the Commission may waive oral argument in the interests of~~
17 ~~justice or to promote judicial economy. In the event of such waiver, the Full Commission shall file an award based~~
18 ~~on the record and briefs.~~

19 (j) Oral Argument.

20 (1) Each appellant shall have twenty minutes to present oral argument and may reserve any amount of
21 the twenty-minute total allotment for rebuttal, unless otherwise specified by Order of the
22 Commission. Each appellee shall also have twenty minutes to present oral argument, unless
23 otherwise specified by Order of the Commission. The [Commission; however, the] appellee(s) may
24 not reserve rebuttal time. In the case of cross-appeals, each appealing party may reserve rebuttal
25 time.

26 (2) Any party may request additional time to present oral argument in excess of the [standard] twenty-
27 minute allowance. Such requests shall be made in writing and submitted to the Full Commission
28 no less than ten days prior to the scheduled hearing date. The written request for additional time
29 shall state with [specificity] particularity the reason(s) for the request of additional time and the
30 amount of additional time requested.

31 (3) An employee appealing the amount of a disfigurement award shall personally appear before the Full
32 Commission to permit the Full Commission to view the disfigurement.

33 (4) A party may waive oral argument or appearance before the Commission at any time with approval
34 of the Commission. Upon the request of a party or on its own initiative, the Commission may review
35 the case and file an Order or Award without oral [argument.] argument or appearance before the
36 Commission.

1 (5) If any party fails to appear before the Full Commission upon the call of the case, the Commission
2 ~~[may]~~ may, in the interests of justice or judicial economy, disallow the party's right to present oral
3 argument. If neither party appears upon the call of the case, the Full Commission may decide the
4 case upon the record and briefs on appeal, unless otherwise ordered.

5 (6) Parties shall not discuss matters outside the record, assert personal opinions, relate personal
6 experiences, or attribute wrongful acts or motives to opposing counsel or members of the
7 Commission.

8 ~~(i) Briefs to the Full Commission shall not exceed 35 pages, excluding attachments. No page limit applies to the~~
9 ~~length of attachments. Briefs shall be prepared using a 12 point type, shall be double spaced, and shall be prepared~~
10 ~~with non-justified right margins. Each page of the brief shall be numbered at the bottom of the page. When a party~~
11 ~~quotes or paraphrases testimony or other evidence from the appellate record in the party's brief, the party shall include,~~
12 ~~at the end of the sentence in the brief that quotes or paraphrases the testimony or other evidence, a parenthetical entry~~
13 ~~that designates the source of the quoted or paraphrased material and the page number within the applicable source.~~
14 ~~The party shall use "T" to refer to the transcript of hearing testimony, "Ex" for exhibit, and "p" for page number. For~~
15 ~~example, if a party quotes or paraphrases material located in the hearing transcript on page 11, the party shall use the~~
16 ~~following format "(T p 11)," and if a party quotes or paraphrases material located in an exhibit on page 12, the party~~
17 ~~shall use the following format "(Ex p 12)." When a party quotes or paraphrases testimony in the transcript of a~~
18 ~~deposition in the party's brief, the party shall include the last name of the deponent and the page on which such~~
19 ~~testimony is located. For example, if a party quotes or paraphrases the testimony of John Smith, located on page 11~~
20 ~~of such deposition, the party shall use the following format "(Smith p 11)."~~

21 ~~(j) An employee appealing the amount of a disfigurement award shall personally appear before the Full Commission~~
22 ~~to permit the Full Commission to view the disfigurement.~~

23
24 *History Note:* Authority G.S. 97-80(a); 97-85; ~~S.L. 2014-77;~~
25 *Eff. January 1, 1990;*
26 *Amended Eff. November 1, 2014; January 1, 2011; August 1, 2006; June 1, 2000;*
27 *Recodified from 04 NCAC 10A .0701 Eff. June 1, 2018;*
28 *Amended Eff. January 1, 2019.*
29

Rule 11 NCAC 23A .0702 is amended **with changes** as published in 33:06 NCR 572 as follows:

11 NCAC 23A .0702 REVIEW OF ADMINISTRATIVE DECISIONS

(a) Administrative decisions include orders, decisions, and awards made in a summary manner, without findings of fact, including decisions on the following:

- (1) applications to approve agreements to pay compensation and medical bills;
- (2) applications to approve the termination or suspension or the reinstatement of compensation;
- (3) applications to change the interval of payments; and
- (4) applications for lump sum payments of compensation.

(b) Administrative decisions made in cases not set for hearing before a Commissioner or Deputy Commissioner or before the Full Commission for review shall be reviewed upon the filing of a Motion for Reconsideration. Reconsideration, upon a request for hearing on the administrative decision, or upon request for hearing on the ruling on a Motion for Reconsideration. A Motion for Reconsideration shall be filed within 15 days of receipt of the administrative decision and addressed to the Administrative Officer who made the decision. A request for hearing shall be filed within 15 days of the administrative decision or a ruling on a Motion for Reconsideration. with the Commission addressed to the Administrative Officer who made the decision or may be reviewed by requesting a hearing within 15 days of receipt of the decision or receipt of the ruling on a Motion to Reconsider. These issues may also Notwithstanding the provisions above, issues addressed by an administrative decision may be raised and determined at a subsequent hearing.

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

~~(c)~~ (d) Any request for a hearing to review an administrative decision pursuant to Paragraph (b) shall be made to the Commission and filed with the Commission's Docket Director, Office of the Clerk. The Commission shall designate a Commissioner or Deputy Commissioner to hear the review. The Commissioner or Deputy Commissioner hearing the matter shall consider all issues de novo, and no issue shall be considered moot solely because the order has been fully executed during the pendency of the hearing.

(e) Any request for review by the Full Commission of an administrative decision by a Commissioner or Deputy Commissioner made during the pendency of a case assigned to them pursuant to G.S. 97-84 shall be filed with the Office of the Clerk. If the administrative decision made by the authoring Commissioner or Deputy Commissioner is a final judgment as to one or more issues or parties and the administrative decision contains a certification that there is no just reason for delay, the request for review shall be referred directly to a panel of the Full Commission. If the administrative decision contains no certification, requests for review will be referred to the Chair of the Commission

1 for a determination regarding the right to immediate review, and the parties shall address the grounds upon which
2 immediate review shall be allowed.

3 ~~(d)(f)~~ Orders filed by a single Commissioner in matters before the Full Commission for review pursuant to G.S. 97-
4 85, including orders dismissing reviews to the Full Commission or denying a request for the right of immediate request
5 for review to the Full Commission, are administrative orders and are not final determinations of the Commission. As
6 such, an order filed by a single Commissioner is not appealable to the North Carolina Court of Appeals. A one-
7 signature order filed by a single Commissioner may be reviewed by:

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

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

11 ~~(e)(g)~~ This Rule shall not apply to medical motions filed pursuant to G.S. 97-25; provided, however, that a party may
12 request reconsideration of an administrative ruling on a medical motion, or may request a stay, or may request an
13 evidentiary hearing de novo, all as set forth in G.S. 97-25.

14
15 *History Note: Authority G.S. 97-79(g); 97-80(a); 97-85; S.L. 2014-77;*

16 *Eff. January 1, 1990;*

17 *Amended Eff. November 1, 2014; January 1, 2011; June 1, 2000;*

18 *Recodified from 04 NCAC 10A .0701 Eff. June 1, 2018;*

19 *Amended Eff. January 1, 2019.*
20
21

1 Rule 11 NCAC 23A .0801 is amended as published in 33:06 NCR 577–78 as follows:

2
3 **11 NCAC 23A .0801 WAIVER OF RULES**

4 In the interests of justice or to promote judicial economy, the Commission may, except as otherwise provided by the
5 rules in this Subchapter, waive or vary the requirements or provisions of any of the rules in this Subchapter in a case
6 pending before the Commission upon ~~written application request~~ of a party or upon its own initiative only if the
7 employee is not represented by counsel. Notwithstanding oral requests made during a hearing before the Commission,
8 all requests shall be submitted in writing and served upon all opposing parties contemporaneously. By order of the
9 Commission, oral requests shall be submitted in writing within five days of the request. Responses to requests
10 considered pursuant to this Rule may be submitted in accordance with Rule .0609 of this Subchapter within five days
11 of service of the original request. Citation to this Rule or use of the term “waiver” is not required for requests
12 considered pursuant to this Rule. Factors the Commission shall use in determining whether to grant the waiver are:

- 13 (1) the necessity of a waiver;
14 (2) the party's responsibility for the conditions creating the need for a waiver;
15 (3) the party's prior requests for a waiver;
16 (4) the precedential value of such a waiver;
17 (5) notice to and opposition by the opposing parties; and
18 (6) the harm to the party if the waiver is not granted.

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

21 *Eff. January 1, 1990;*

22 *Amended Eff. November 1, 2014;*

23 *Recodified from 04 NCAC 10A .0801 Eff. June 1, 2018;*

24 *Amended Eff. January 1, 2019.*
25

Rule 11 NCAC 23B .0206 is amended with changes as published in 33:06 NCR 578 as follows:

11 NCAC 23B .0206 HEARINGS

(a) The Commission may, on its own motion, order a hearing, rehearing, or pre-trial conference of any tort claim in dispute. The Commission shall set the date, time, and location of the hearing, and provide notice of the hearing to the parties. ~~[Within the Commission's discretion, any]~~ Any pre-trial conference, as well as hearings of claims in which the plaintiff is incarcerated at the time of the hearing, may be conducted via videoconference or telephone ~~[conference.]~~ conference in lieu of an in-person hearing. ~~[The date and time of the hearing shall not be limited by the business hours of the Commission.]~~ Where a party has not notified the Commission of the attorney representing the party prior to the mailing of calendars for hearing, notice to that party constitutes notice to the party's attorney. Any scheduled hearings shall proceed to completion unless recessed, continued, or removed by Order of the ~~[Commission.]~~ Commission, and shall not be limited by the business hours of the Commission as set forth in Rule .0101 of this Subchapter.

(b) When an attorney is notified to appear for a pre-trial conference, motion hearing, hearing, or any other appearance the attorney shall, consistent with ~~[ethical requirements,]~~ the North Carolina Rules of Professional Conduct, appear or have a partner, associate, or other attorney appear. Counsel for each party or any party without legal representation shall remain in the hearing room throughout the course of the hearing, unless ~~[released]~~ excused by the Commission.

(c) A motion for a continuance shall be allowed ~~[only]~~ by the Commissioner or Deputy Commissioner before whom the case is set in the interests of justice or to promote judicial economy.

(d) In cases involving property damage of less than five hundred dollars (\$500.00), the Commission may, upon its own motion or upon the motion of either party, order a videoconference or telephone conference hearing on the matter.

(e) Unless otherwise ordered by the Commission, in the event of inclement weather or natural disaster, hearings set by the Commission shall be cancelled or delayed and rescheduled when the proceedings before the General Courts of Justice in that county are cancelled or delayed.

(f) Unless otherwise ordered or waived by the Commission, applications for issuance of a writ of *habeas corpus ad testificandum* requesting the appearance of witnesses incarcerated by the North Carolina Division of Adult Corrections, shall be filed with the Commission [in accordance with Rule .0104 of this Subchapter,] with a copy to the opposing party or counsel, for review by the Commission in accordance with G.S. 143-296.

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

~~(c) The Commission may issue writs of habeas corpus ad testificandum in cases arising under the Tort Claims Act. Requests for issuance of a writ of habeas corpus ad testificandum shall be sent to the Docket Section of the Commission if the case has not been set on a calendar for hearing. If the case has been set on a hearing calendar, the request shall be sent to the Commissioner or Deputy Commissioner before whom the case is set.~~

~~(d) The Commission shall give notice of a hearing in every case. A motion for a continuance shall be allowed only by the Commissioner or Deputy Commissioner before whom the case is set in the interests of justice or to promote~~

1 ~~judicial economy. Where a party has not notified the Commission of the attorney representing the party prior to the~~
2 ~~mailing of calendars for hearing, notice to that party constitutes notice to the party's attorney.~~

3 ~~(e) In cases involving property damage of less than five hundred dollars (\$500.00), the Commission shall, upon its~~
4 ~~own motion or upon the motion of either party, order a telephonic hearing on the matter.~~

5 ~~(f) All subpoenas shall be issued in accordance with Rule 45 of the North Carolina Rules of Civil Procedure, with the~~
6 ~~exception that production of public records or hospital records as provided in Rule 45(e)(2), shall be served upon the~~
7 ~~Commissioner or Deputy Commissioner before whom the case is calendared, or upon the Docket Section of the~~
8 ~~Commission should the case not be calendared.~~

9 ~~(g) In the event of inclement weather or natural disaster, hearings set by the Commission shall be cancelled or delayed~~
10 ~~when the proceedings before the General Court of Justice in that county are cancelled or delayed.~~

11
12
13 *History Note: Authority G.S. 143-296; 143-300;*
14 *Eff. January 1, 1989;*
15 *Recodified from 04 NCAC 10B .0202 Eff. April 17, 2000;*
16 *Amended Eff. July 1, 2014; January 1, 2011; May 1, 2000;*
17 *Recodified from 04 NCAC 10B .00206 Eff. June 1, 2018;*
18 *Amended Eff. January 1, 2019.*
19

Rule 11 NCAC 23B .0503 is amended with changes as published in 33:06 NCR 578 as follows:

11 NCAC 23B .0503 SANCTIONS

The Commission may, on its own initiative or motion of a party, impose a sanction against a party or attorney, including government entities appearing before the Commission, party, attorney, government entity, or any combination thereof, ~~or attorney or both,~~ when the Commission determines that such party, ~~or attorney,~~ government entity, or any combination thereof, ~~or both~~ failed to comply with the Rules in this ~~Subchapter.~~ Subchapter, an Order of the Commission, the North Carolina Rules of Civil Procedure, and North Carolina Rules of Professional Conduct, or other applicable law. ~~[rules, laws, or regulations.]~~ ~~The Commission may impose sanctions of the type and in the manner prescribed by Rule 37 of the North Carolina Rules of Civil Procedure.~~

*History Note: Authority G.S. 1A-1, Rule 11 and Rule 37; 143-291; 143-296; 143-300;
 Eff. January 1, 2011;
 Amended Eff. July 1, 2014;
 Recodified from 04 NCAC 10B .0503 Eff. June 1, 2018;
 Amended Eff. January 1, 2019.*

1 Rule 11 NCAC 23H .0201 is amended without notice or hearing pursuant to G.S. 150B-21.5(a)(2) and (3) as
2 follows:

3
4 **SUBCHAPTER 23H – RULES OF THE INDUSTRIAL COMMISSION RELATING TO THE ~~LAW-~~**
5 **~~ENFORCEMENT OFFICERS', FIREMEN'S, RESCUE SQUAD WORKERS' AND CIVIL AIR PATROL~~**
6 **~~MEMBERS'~~ PUBLIC SAFETY EMPLOYEES' DEATH BENEFITS ACT**

7
8 **SECTION .0200 - RULES OF COMMISSION**

9
10 **11 NCAC 23H .0201 DETERMINATION OF CLAIMS BY THE COMMISSION**

11 (a) Upon application for an award under the provisions of the ~~Law Enforcement Officers', Firemen's, Rescue Squad~~
12 ~~Workers' and Civil Air Patrol Members'-Public Safety Employees'~~ Death Benefits Act, the Commission shall
13 determine whether sufficient evidence is contained in the Commission's workers' compensation or other files upon
14 which to base an order for the payment of benefits. If the Commission is satisfied that such an order should be
15 issued, it shall, without conducting a hearing, file an award directing the payment of benefits.

16 (b) If the Commission is of the opinion that the Commission's workers' compensation or other files have
17 insufficient evidence upon which to base an award for the payment of benefits, the Commission shall place the case
18 upon the Commission's hearing docket. The Commission shall set a contested case for hearing in a location deemed
19 convenient to witnesses and the Commission.

20
21 *History Note: Authority G.S. 143-166.4;*
22 *Eff. August 1, 1979;*
23 *Amended Eff. July 1, 2014;*
24 *Recodified from 04 NCAC 10H .0201 Eff. June 1, ~~2018-~~2018;*
25 *Amended Eff. January 1, 2019.*
26
27

1 Rule 11 NCAC 23H .0202 is amended **with changes** without notice or hearing pursuant to G.S. 150B-21.5(a)(2) and
2 (3) as follows:

3
4 **11 NCAC 23H .0202 HEARINGS BEFORE THE COMMISSION**

5 (a) The Commissioner or Deputy Commissioner before whom a case regarding the ~~Law Enforcement Officers',~~
6 ~~Firemen's, Rescue Squad Workers' and Civil Air Patrol Members'~~ Public Safety Employees' Death Benefits Act is set
7 for hearing, shall order the parties to participate in a pre-trial conference. This conference shall be conducted at such
8 place and by such method as the Commissioner or Deputy Commissioner deems ~~appropriate,~~ **appropriate in**
9 **consideration of the interests of justice and judicial economy,** including conference telephone calls.

10 (b) The Commission shall give notice of hearing in every case. Postponement or continuance of a scheduled hearing
11 shall be granted in the interests of justice or to promote judicial economy.

12 (c) Notice of the hearing shall be given to the Attorney General of the State of North Carolina, who may appear as
13 amicus curiae.

14
15 *History Note: Authority G.S. 143-166.4;*
16 *Eff. August 1, 1979;*
17 *Amended Eff. July 1, 2014;*
18 *Recodified from 04 NCAC 10H .0202 Eff. June 1, ~~2018-2018~~;*
19 *Amended Eff. January 1, 2019.*
20