

1 Rule 04 NCAC 10A .0605 is amended as published on the OAH website for the public comment period beginning
2 August 20 through September 15, 2014, with changes as follows:

3
4 **04 NCAC 10A .0605 DISCOVERY**

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

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

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

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

26 ~~(c)~~(4) If there is an objection to or other failure to answer an interrogatory, the party submitting the
27 interrogatories may move the ~~Industrial~~ Commission for an order compelling answer. If
28 the Industrial Commission orders answer to an interrogatory within a time certain and no answer is
29 made or the objection is still lodged, the Industrial Commission may issue an order
30 with appropriate sanctions, [sanctions.] including but not limited to the sanctions specified in Rule
31 37 of the North Carolina Rules of Civil Procedure.

32 ~~(2)~~(5) Interrogatories and requests for production of documents shall ~~may~~ relate to matters ~~which that~~ are
33 not ~~privileged~~ privileged, ~~which that~~ are relevant to an issue ~~presently~~ in dispute dispute,
34 or ~~which that~~ the requesting party reasonably believes may later be disputed. ~~Signature~~ The
35 signature of a party or attorney serving interrogatories or requests for production of
36 documents constitutes a certificate by such person that he or she has personally read each of the
37 interrogatories and requests for production of documents, that no such interrogatory or request for

1 production of documents will oppress a party or cause any unnecessary expense or delay, that the
2 information requested is not known or equally available to the requesting party party, and that the
3 interrogatory or requested document relates to an issue presently in dispute or ~~which that~~ the
4 requesting party reasonably believes may later be in dispute. A party may serve an interrogatory,
5 however, to obtain verification of facts relating relevant to an issue presently in dispute. Answers
6 to interrogatories may be used to the extent permitted by ~~the rules of evidence.~~ Chapter [08C] 8C
7 of the North Carolina General Statutes.

8 ~~(6) [Until a matter is calendared for a hearing, parties may serve requests for production of documents~~
9 ~~without leave of the Commission.]~~ The parties may serve requests for production of documents
10 without leave of the Commission until 35 days prior to the date of hearing.

11 ~~(3)(7)~~ Additional methods of discovery as provided by the North Carolina Rules of Civil Procedure may
12 be used only upon motion and approval by the Industrial Commission or by agreement of the
13 parties. The Commission [shall] may approve the motion if it is shown to be in the interests of
14 justice or to promote judicial economy.

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

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

22 ~~(a) notices of depositions;~~

23 ~~(b) discovery requests and responses deemed by filing party to be pertinent to a pending~~
24 ~~motion;~~

25 ~~(c) responses to discovery following a motion or order to compel; and~~

26 ~~(d) post-hearing discovery requests and responses.~~

27 The above-listed documents shall be filed with the Commission, as well as served on the opposing
28 party.

29 ~~(5)(9)~~ Sanctions ~~may~~ shall be imposed under this Rule for failure to comply with a Commission order
30 compelling ~~discovery.~~ ~~[discovery.]~~ discovery unless the Commission excuses the failure based on
31 an inability to comply with the order. A motion by a party or its attorney to compel discovery
32 under this Rule and 4 NCAC 10A .607 Rule .0607 of this Subchapter shall represent that informal
33 means of resolving the discovery dispute have been attempted in good faith and state ~~briefly~~ the
34 opposing ~~parties'~~ party's position or that there has been a reasonable attempt to contact the
35 opposing party and ascertain its position.

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37 *History Note: Authority G.S. 97-80(a); 97-80(f); S.L. 2014-77;*

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Eff. January 1, 1990;

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1 Rule 04 NCAC 10A .0609A is amended as published on the OAH website for the public comment period beginning
2 August 20 through September 15, 2014, with changes as follows:

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4 **04 NCAC 10A .0609A MEDICAL MOTIONS AND EMERGENCY MEDICAL MOTIONS**

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

6 ~~(1) Medical motions pursuant to N.C. Gen. Stat. §97-25 brought before the Office of the Executive~~
7 ~~Secretary for an administrative ruling shall comply with applicable provisions of Rule 609 and~~
8 ~~shall be submitted electronically to medicalmotions@ic.nc.gov, unless electronic submission is~~
9 ~~unavailable to the party.~~

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

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

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

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

27 ~~(3) A party may appeal an Order by a Deputy Commissioner on an Expedited Medical Motion by~~
28 ~~giving notice of appeal to the Full Commission within 15 days of receipt of the Order or receipt of~~
29 ~~the ruling on a Motion to Reconsider the Order filed pursuant to Rule 703(1).~~

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

33 ~~(B) After receipt of notice of appeal, the appeal will be acknowledged by the Dockets~~
34 ~~Department within three (3) days by sending an appropriate Order under the name of the~~
35 ~~Chair of the Panel to which the appeal is assigned. The parties may be permitted to file~~
36 ~~briefs on an abbreviated schedule in the discretion of the panel chair. The panel chair will~~
37 ~~also determine if oral arguments are to be by telephone, in person, or waived. All~~

1 ~~correspondence, briefs, or motions related to the appeal shall be addressed to the panel~~
2 ~~chair with a copy to the law clerk of the panel chair.~~

3 ~~(b) Emergency Medical Motions:~~

4 ~~(1) Motions requesting emergency medical relief administratively shall contain the following:~~

5 ~~(A) A boldface, or otherwise emphasized, designation as "Emergency Medical Motion."~~

6 ~~(B) An explanation of the need for a shortened time period for review, including any hardship~~
7 ~~that warrants immediate attention/action by the Commission.~~

8 ~~(C) A statement of the time sensitive nature of the request, with specificity.~~

9 ~~(D) Detailed dates and times related to the issue raised and to the date a ruling is requested.~~

10 ~~(E) Documentation in support of the request, including the most recent medical records.~~

11 ~~(F) A representation that informal means of resolving the issue have been attempted in good~~
12 ~~faith, and the opposing party's position, if known.~~

13 ~~(2) A party may file an Emergency Medical Motion with the Executive Secretary's Office, the Chief~~
14 ~~Deputy Commissioner, or the Office of the Chair. A proposed Order shall be provided with the~~
15 ~~motion. The non-moving party(ies) will be advised regarding any time allowed for response and~~
16 ~~may be advised whether informal telephonic oral argument is necessary.~~

17 ~~(3) Emergency Medical Motions and responses thereto shall be submitted electronically, unless~~
18 ~~electronic submission is unavailable to the party.~~

19 ~~(A) Emergency Medical Motions and responses thereto filed with the Executive Secretary's~~
20 ~~Office shall be submitted to medicalmotions@ic.nc.gov.~~

21 ~~(B) Emergency Medical Motions filed with the Chief Deputy Commissioner shall be~~
22 ~~submitted electronically directly to the Chief Deputy Commissioner and his/her legal~~
23 ~~assistant.~~

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

26 (a) Medical motions brought pursuant to G.S. 97-25, and responses thereto, shall be brought before either the Office
27 of the Chief Deputy Commissioner or the Executive Secretary and shall be submitted electronically
28 to medicalmotions@ic.nc.gov. Motions and responses shall be submitted [simultaneously] contemporaneously to
29 the Commission and the opposing party [and] or opposing party's counsel, if represented.

30 (b) [Once notification has been received by the parties that a medical motion has been assigned to a Deputy
31 Commissioner, subsequent filings and communication shall be submitted directly to the Deputy Commissioner
32 assigned.] Following receipt of a notice of hearing before a Deputy Commissioner on a medical motion or appeal,
33 the parties shall submit all subsequent filings and communications electronically directly to the Deputy
34 Commissioner assigned.

35 (c) [Upon receipt of a medical motion, carriers, third party administrators, and employers shall immediately send
36 notification of the name, email address, telephone number and fax number of the attorney appearing on their behalf
37 to medicalmotions@ic.nc.gov.] [An] In addition to any notice of representation contained in a medical motion or

1 response, an attorney who is retained by a party ~~[in any proceeding]~~ to prosecute or defend a medical motion or
2 appeal before the Commission shall ~~[also]~~ file a notice of representation with the Docket Director
3 at dockets@ic.nc.gov and send a copy of the notice to all other counsel and all ~~[other]~~ unrepresented parties
4 involved in the proceeding.

5 (d) Motions submitted pursuant to G.S. 97-25 and requesting medical relief other than emergency relief shall
6 contain the following:

- 7 (1) a designation as a "Medical Motion" brought pursuant to G.S. 97-25 ~~and~~ ~~[shall include]~~ a
8 statement directly underneath the case caption clearly indicating the request is for either an
9 administrative ruling by the Executive Secretary or an expedited full evidentiary hearing before a
10 Deputy Commissioner;
- 11 (2) the ~~[claimant's]~~ employee's name. If the ~~[claimant]~~ employee is unrepresented, ~~[claimant's]~~ the
12 employee's ~~[email address, telephone number, and fax number.]~~ telephone number and, ~~[to the~~
13 ~~extent]~~ if available, the employee's email address and fax number. If the ~~[claimant]~~ employee is
14 represented, the name, email address, telephone ~~[number]~~ number, and fax number of
15 ~~[claimant's]~~ employee's counsel;
- 16 (3) the employer's name and employer code;
- 17 (4) the carrier or third party administrator's name, carrier code, ~~[email address,]~~ telephone
18 ~~[number and]~~ number, fax ~~[number,]~~ number, and, to the extent available, email address;
- 19 (5) the adjuster's name, email address, telephone ~~[number]~~ number, and fax number if counsel for the
20 employer and carrier has not been retained;
- 21 (6) ~~[the counsel for employer and carrier's]~~ if an attorney has been retained for the employer or
22 carrier, the attorney's name, email address, telephone ~~[number]~~ number, and fax number;
- 23 (7) a statement of the treatment or relief requested;
- 24 (8) a statement of the medical diagnosis of the ~~[claimant]~~ employee ~~[and the treatment~~
25 ~~recommendation]~~ and the name of ~~[the]~~ any health care provider ~~having made a diagnosis or~~
26 ~~treatment recommendation~~ that is the basis for the motion;
- 27 (9) a statement as to whether the claim has been admitted on a Form 60, ~~Employer's Admission of~~
28 ~~Employee's Right to Compensation,~~ Form 63, ~~Notice to Employee of Payment of Compensation~~
29 ~~without Prejudice (G.S. 97-18(d)) or Payment of Medical Benefits Only without Prejudice (G.S.~~
30 ~~97-2(19) & 97-25),~~ Form ~~[21]~~ 21, ~~Agreement for Compensation for Disability,~~ or is subject to a
31 prior Commission Opinion and Award or Order finding compensability, with supporting
32 documentation attached;
- 33 (10) a statement of the time-sensitive nature of the request, if any;
- 34 (11) an explanation of opinions known and in the possession of the ~~[employee]~~ movant ~~[of additional~~
35 ~~medical or other]~~ by any relevant experts, independent medical examiners, and second opinion
36 examiners;

1 (12) if the motion requests a second opinion examination pursuant to G.S. 97-25, the motion shall
2 specify whether the [plaintiff] employee has made a prior written request to the defendants for the
3 examination, as well as the date of the request and the date of the denial, if any;

4 (13) a representation that informal means of resolving the issue have been attempted in good faith, and
5 the opposing party's position, if known; and

6 (14) a proposed Order.

7 (e) Motions submitted pursuant to G.S. 97-25 and requesting emergency medical relief shall contain the following:

8 (1) a boldface or otherwise emphasized, designation as "Emergency Medical Motion";

9 (2) the [claimant's] employee's name. If the [claimant] employee is unrepresented,
10 [claimant's] the employee's [email address, telephone number, and fax number.] telephone
11 number and, [to the extent] if available, the employee's email address and fax number. If the
12 [claimant] employee is represented, the name, email address, telephone [number] number, and fax
13 number of [claimant's] the employee's counsel;

14 (3) the employer's name and employer code, if known;

15 (4) the carrier or third party administrator's name, carrier code, [email address,] telephone
16 [number and] number, fax [number;] number, and, [to the extent] if available, email address;

17 (5) the adjuster's name, email address, telephone [number] number, and fax number if counsel for the
18 employer/carrier has not been retained;

19 (6) the counsel for employer/carrier's name, email address, telephone [number] number, and fax
20 number;

21 (7) an explanation of the medical diagnosis and treatment recommendation of the health care provider
22 that requires emergency attention;

23 (8) a statement of the need for a shortened time period for review, including relevant dates and the
24 potential for adverse consequences if the recommended [treatment] relief is not provided
25 emergently;

26 (9) an explanation of opinions known and in the possession of the [employee] movant [of additional
27 medical or other] by any relevant experts, independent medical examiner, and second opinion
28 examiners;

29 (10) a representation that informal means of resolving the issue have been attempted in good faith, and
30 the opposing party's position, if known;

31 (11) [documentation] documents known and in the possession of the [employee in support of] movant
32 relevant to the request, including relevant medical records; and

33 (12) a proposed Order.

34 ~~[(f) The parties shall receive notice of the date and time of an initial informal telephonic conference to be conducted~~
35 ~~by a Deputy Commissioner to determine whether the motion warrants an expedited or emergency hearing and to~~
36 ~~clarify the issues presented. During the initial informal telephonic conference each party shall be afforded an~~

1 ~~opportunity to state its position and discuss documentary evidence which shall be submitted electronically to the~~
2 ~~Deputy Commissioner prior to the initial informal telephone conference.~~

3 ~~(g) At or prior to the initial informal telephonic conference, the parties may consent to a review of the contested~~
4 ~~issues by electronic mail submission of only relevant medical records and opinion letters.]~~

5 (f) Upon receipt of an emergency medical motion, the non-moving party(ies) shall be advised by the Commission of
6 any time allowed for response and whether informal telephonic oral argument is necessary.

7 (g) A party may appeal an Order of the Executive Secretary on a motion brought pursuant to G.S. 97-25(f)(1) or
8 receipt of a ruling on a motion to reconsider filed pursuant to Rule .0702(b) of this Subchapter by submitting notice
9 of appeal electronically to medicalmotions@ic.nc.gov within 15 calendar days of receipt of the Order. A letter or
10 motion expressing an intent to appeal a decision of the Executive Secretary shall be considered a request for an
11 expedited hearing pursuant to G.S. 97-25 and G.S. 97-84. The letter or motion shall specifically identify the Order
12 from which the appeal is taken and shall indicate that the appeal is from an administrative Order by the Executive
13 Secretary entered pursuant to G.S. 97-25(f)(1). After receipt of a notice of appeal, the appeal shall be assigned to a
14 Deputy Commissioner and an Order under the name of the Deputy Commissioner to which the appeal is assigned
15 shall be issued within five days of receipt of the notice of appeal.

16 ~~(h) [Depositions deemed necessary by the Deputy Commissioner]~~ Depositions, if requested by the parties or
17 ordered by the Deputy Commissioner, shall be taken on the Deputy Commissioner's order pursuant to G.S. 97-25.
18 ~~[within 35 days of the date the motion is filed. Transcripts of depositions shall be submitted electronically to the~~
19 ~~Commission within 40 days of the date of the filing of the motion.]~~ In full evidentiary hearings conducted by a
20 Deputy Commissioner pursuant to G.S. 97-25(f)(1) and (f)(2), depositions shall be completed and all transcripts,
21 briefs, and proposed Opinion and Awards submitted to the Deputy Commissioner within 60 days of the filing of the
22 motion or appeal. The Deputy Commissioner may reduce or enlarge the timeframe contained in this Paragraph for
23 good cause [shown.] shown or upon agreement of the parties.

24 ~~(i) At the initial informal telephonic conference, each party shall notify the Commission and the other party as to~~
25 ~~whether a second informal telephonic conference is necessary. This second informal telephonic conference does not~~
26 ~~extend the time for resolution of the motion.~~

27 ~~(j) Upon receipt of an emergency medical motion, the non-moving party(ies) shall be advised by the Commission of~~
28 ~~any time allowed for response and whether informal telephonic oral argument is necessary.~~

29 ~~(k)(i) A party may appeal a Deputy Commissioner's Order on a motion brought~~ the decision of a Deputy
30 Commissioner filed pursuant to G.S. 97-25(f)(2) by giving notice of appeal to the Full Commission within 15
31 calendar days of receipt of the decision. Order or receipt of the ruling on a Motion to Reconsider the Order filed
32 pursuant to Rule .0703(b) of this Subchapter. A letter expressing an intent to appeal a Deputy
33 Commissioner's Order on a motion brought decision filed pursuant to G.S. 97-25 shall be considered notice of
34 appeal to the Full Commission, provided that the letter specifically identifies the decision from which appeal is
35 taken and indicates that the appeal is taken from a decision by a Deputy Commissioner pursuant to G.S. 97-25(f)(2).
36 After receipt of notice of appeal, the appeal shall be acknowledged by the Docket Section within three days by
37 sending an Order under the name of the Chair of the Panel to which the appeal is assigned. The Order shall indicate

1 ~~whether the parties may file briefs and~~ set the schedule for filing **briefs**. A Full Commission hearing on an appeal
2 of a medical motion filed pursuant to G.S. 97-25 shall be held telephonically and shall not be recorded unless
3 unusual circumstances arise and the Commission so orders. All correspondence, briefs, and motions related to the
4 appeal shall be addressed to the Chair of the Panel with a copy to his or her law clerk.

5 (j) A party may appeal the administrative decision of the Chief Deputy Commissioner or the Chief Deputy
6 Commissioner's designee filed pursuant to G.S. 97-25(f)(3) by submitting notice of appeal electronically to
7 medicalmotions@ic.nc.gov within 15 calendar days of receipt of the Order. A letter or motion expressing an intent
8 to appeal the Chief Deputy Commissioner or the Chief Deputy Commissioner's designee's Order filed pursuant to
9 G.S. 97-25(f)(3) shall be considered a notice of appeal, provided that the letter specifically identifies the Order from
10 which appeal is taken and indicates that the appeal is from an Order of a Deputy Commissioner entered pursuant to
11 G.S. 97-25(f)(3). After receipt of notice of appeal, the appeal shall be acknowledged within five days by sending an
12 Order under the name of the Deputy Commissioner to whom the appeal is assigned. The appeal of the administrative
13 decision of the Chief Deputy Commissioner or the Chief Deputy Commissioner's designee shall be subject to
14 G.S. 97-25(f)(2) and G.S. 97-84.

15 ~~(k)~~ The Commission shall accept the filing of documents by non-electronic methods if electronic transmission is
16 unavailable to the party.

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18 *History Note:* Authority G.S. 97-25; 97-78(f)(2); 97-78(g)(2); 97-80(a); **S.L. 2014-77;**
19 *Eff. January 1, 2011;*
20 *Amended Eff. November 1, 2014.*

1 Rule 04 NCAC 10A .0701 is amended as published on the OAH website for the public comment period beginning
2 August 20 through September 15, 2014, with changes as follows:

3
4 **SECTION .0700 - APPEALS**

5
6 **04 NCAC 10A .0701 REVIEW BY THE FULL COMMISSION**

7 ~~(a) A letter expressing an intent to appeal shall be considered notice of appeal to the Full Commission within the~~
8 ~~meaning of N.C. Gen. Stat. §97-85, provided that it clearly specifies the Order or Opinion and Award from which appeal~~
9 ~~is taken.~~

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

19 ~~(c) Particular grounds for appeal not set forth in the application for review shall be deemed abandoned, and argument~~
20 ~~thereon shall not be heard before the Full Commission.~~

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

31 ~~(e) After notice of appeal has been given to the Full Commission, any motions related to the issues before the Full~~
32 ~~Commission shall be filed in triplicate with the Full Commission, with service on the other parties.~~

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

35 ~~(g) Cases should be cited by North Carolina Reports, and, preferably, to Southeastern Reports. Counsel shall not discuss~~
36 ~~matters outside the record, assert personal opinions or relate personal experiences, or attribute unworthy acts or motives~~
37 ~~to opposing counsel.~~

1 ~~(h) The Industrial Commission or any one of the parties with permission of the Industrial Commission may waive oral~~
2 ~~argument before the Full Commission. In the event of such waiver, the Full Commission will file a decision, based on the~~
3 ~~record, assignments of error and briefs.~~

4 ~~(i) A plaintiff appealing the amount of a disfigurement award shall personally appear before the Full Commission to~~
5 ~~permit the Full Commission to view the disfigurement.~~

6 ~~(j) Briefs to the Full Commission shall not exceed 35 pages, excluding attachments. No page limit shall apply to the~~
7 ~~length of attachments. Briefs shall be prepared entirely using a 12 point font, shall be double spaced, and shall be~~
8 ~~prepared with non justified right margins. Each page of the brief shall be numbered at the bottom right of the page. When~~
9 ~~quoting or paraphrasing testimony or other evidence in the transcript of the evidence, a parenthetic entry in the text, to~~
10 ~~include the exact page number location within the transcript of the evidence of the information being referenced shall be~~
11 ~~placed at the end of the sentence citing the information [Example: (T.p.38)]. When quoting or paraphrasing testimony or~~
12 ~~other evidence in the transcript of a deposition, a parenthetic entry in the text to include the name of the person deposed~~
13 ~~and exact page number location within the transcript of the deposition of the information being referenced shall be placed~~
14 ~~at the end of the sentence citing the information. [Example: (Smith p.15)].~~

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

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

1 (c) A motion to reconsider or to amend the decision of a Deputy Commissioner shall be filed with the Deputy
2 Commissioner within 15 days of receipt of notice of the award with a copy to the Docket Director. The time for filing a
3 request for review from the decision of a Deputy Commissioner under the rules in this Subchapter shall be tolled until a
4 motion to reconsider or to amend the decision has been ruled upon by the Deputy Commissioner. However, if either
5 party files a letter [expressing a request for] requesting review as set forth in Paragraph (a) of this Rule, jurisdiction shall
6 be transferred to the Full Commission, and the Docket Director shall notify the Deputy Commissioner. Upon transfer of
7 jurisdiction to the Full Commission, any party who had a pending motion to reconsider or amend the decision of the
8 Deputy Commissioner may file a motion with the Chairman of the Commission requesting remand to the Deputy
9 Commissioner with whom the motion was pending. Within the Full Commission's discretion, the matter may be so
10 remanded. Upon the Deputy Commissioner's ruling on the motion to reconsider or amend the decision, either party may
11 thereafter file a letter [expressing a request for] requesting review of the Deputy Commissioner's decision as set forth in
12 Paragraph (a) of this Rule.

13 (d) The appellant shall submit a Form 44 *Application for Review* upon which appellant shall state the grounds for the
14 review. The grounds shall be stated with particularity, including the errors allegedly committed by the Commissioner or
15 Deputy Commissioner and, when applicable, the pages in the transcript on which the alleged errors are recorded.
16 Grounds for review not set forth in the Form 44 *Application for Review* are deemed abandoned, and argument thereon
17 shall not be heard before the Full Commission.

18 (e) The appellant shall file the Form 44 *Application for Review* and brief in support of the grounds for review with the
19 Commission with a certificate of service on the appellee within 25 days after receipt of the transcript or receipt of notice
20 that there will be no transcript. The appellee shall have 25 days from service of the Form 44 *Application for Review* and
21 appellant's brief to file a responsive brief with the Commission. The appellee's brief shall include a certificate of service
22 on the appellant. When an appellant fails to file a brief, an appellee shall file its brief within 25 days after the appellant's
23 time for filing the Form 44 *Application for Review* and appellant's brief has expired. A party who fails to file a brief shall
24 not participate in oral argument before the Full Commission. If multiple parties request review, each party shall file an
25 appellant's brief and appellee's brief on the schedule set forth in this Paragraph. If the matter has not been calendared for
26 hearing, any party may file with the Docket Director a written stipulation to a single extension of time not to exceed 15
27 days. In no event shall the cumulative extensions of time exceed 30 days.

28 (f) After a request for review has been submitted to the Full Commission, any motions related to the issues for review
29 shall be filed with the Full Commission, with service on the other parties. Motions related to the issues for review
30 including motions for new trial, to supplement the record, [including, but not limited to,] including documents from offers
31 of proof, or to take additional evidence, filed during the pendency of a request for review to the Full Commission, shall
32 be argued before the Full Commission at the time of the hearing of the request for review, except motions related to the
33 official transcript and exhibits. The Full Commission, for good cause shown, may rule on such motions prior to oral
34 argument.

35 (g) Case citations shall be to the North Carolina Reports, the North Carolina Court of Appeals Reports, or the North
36 Carolina Reporter, and when possible, to the South Eastern Reporter. If no reporter citation is available at the time a
37 brief is filed or if an unpublished decision is referenced in the brief, the party citing to the case shall attach a copy of the

1 case to its brief. Counsel shall not discuss matters outside the record, assert personal opinions or relate personal
2 experiences, or attribute wrongful acts or motives to opposing counsel or members of the Commission.

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

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

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

21
22 *History Note: Authority G.S. 97-80(a); 97-85; S.L. 2014-77;*
23 *Eff. January 1, 1990;*
24 *Amended Eff. November 1, 2014; January 1, 2011; August 1, 2006; June 1, 2000.*

1 Rule 04 NCAC 10A .0702 is amended as published on the OAH website for the public comment period beginning
2 August 20 to September 15, 2014, with changes as follows:

3
4 **04 NCAC 10A .0702 REVIEW OF ADMINISTRATIVE DECISIONS**

5 (a) ~~Except as otherwise provided in G.S. 97-86, in every case appealed to the North Carolina Court of Appeals, the~~
6 ~~Rules of Appellate Procedure shall apply. The running of the time for filing and serving a notice of appeal is tolled~~
7 ~~as to all parties by a timely motion filed by any party to amend, to make additional findings, or to reconsider the~~
8 ~~decision, and the full time for appeal commences to run and is to be computed from the entry of an Order upon any~~
9 ~~of these motions, in accordance with Rule 3 of the Rules of Appellate Procedure.~~

10 (b) ~~If the parties cannot agree on the record on appeal, appellant shall furnish the Chair of the Industrial~~
11 ~~Commission, or his designee, one copy of the proposed record on appeal, objections and/or proposed alternative~~
12 ~~record on appeal along with a timely request to settle the record on appeal. The hearing to settle the record on~~
13 ~~appeal shall be held at the offices of the Industrial Commission or by telephone conference. The record on appeal~~
14 ~~shall be settled in accordance with the provisions of Rule 18(d) of the North Carolina Rules of Appellate Procedure.~~

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

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

19 (1) applications to approve agreements to pay compensation and medical bills;

20 (2) applications to approve the termination or suspension or the reinstatement of compensation;

21 ~~[(3) applications for change in treatment or providers of medical compensation;]~~

22 ~~[(4)](3) applications to change the interval of payments; and~~

23 ~~[(5)](4) applications for lump sum payments of compensation.~~

24 Administrative decisions shall be reviewed upon the filing of a Motion for Reconsideration with the Commission
25 addressed to the Administrative Officer who made the [decisions] decision or may be reviewed by requesting a
26 hearing within 15 days of receipt of the [decisions] decision or receipt of the ruling on a Motion to Reconsider.
27 These issues may also be raised and determined at a subsequent hearing.

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

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

1 and no issue shall be considered moot solely because the order has been fully executed during the pendency of the
2 hearing.

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

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

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

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

13

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

15 Eff. January 1, 1990;

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

1 Rule 04 NCAC 10C .0109 is amended as published on the OAH website for the public comment period beginning
2 August 20 through September 15, 2014, with changes as follows:

3
4 **04 NCAC 10C .0109 VOCATIONAL REHABILITATION SERVICES AND RETURN TO WORK**

5 (a) When performing the vocational assessment and formulating and drafting the individualized written
6 rehabilitation plan for the employee required by G.S. 97-32.2(c), the vocational rehabilitation professional shall
7 follow G.S. 97-32.2.

8 (b) Job placement activities may not be commenced until after a vocational assessment and an individualized
9 written rehabilitation plan for vocational rehabilitation services specifying the goals and the priority for return-to-
10 work options have been completed in the case in accordance with G.S. 97-32.2. Job placement activities shall be
11 directed [only toward prospective employers offering the opportunity for suitable employment,] as defined by Item
12 (5) of Rule .0103 of this Subchapter or by applicable statute.

13 (c) Return-to-work options [shall] should be considered in the following order of priority:

14 (1) current job, current employer;

15 (2) new job, current employer;

16 (3) on-the-job training, current employer;

17 (4) new job, new employer;

18 (5) on-the-job training, new employer;

19 (6) formal education or vocational training to prepare the worker for a job with current or new
20 employer; and

21 (7) self-employment, only when its feasibility is documented with reference to the employee's
22 aptitudes and training, adequate capitalization, and market conditions.

23 (d) When an employee requests retraining or education as permitted in G.S. 97-32.2(a), the vocational rehabilitation
24 professional shall provide a written assessment of the employee's request that includes an evaluation of:

25 (1) the retraining or education requested;

26 (2) the availability, location, cost, and identity of providers of the requested retraining or education;

27 (3) [the likely duration until completion of the requested retraining or education and the likely class
28 schedules, class attendance requirements, and out of class time required for homework and study]
29 the likely duration until completion of the requested retraining or education, the number of credits
30 needed to complete the retraining or education, the course names and schedules for the retraining
31 or education, and **identification of** which courses are available on-line versus in person;

32 (4) the current or projected availability of employment upon **completion;** **completion of the**
33 **requested retraining or education;** and

34 (5) the anticipated pay range for employment upon **completion;** **completion of the requested**
35 **retraining or education.**

36 (a)(e) The RP shall obtain from the medical provider work restrictions which fairly address the demands of any
37 proposed employment. If ordered by a physician, the RP should obtain a Functional Capacity Evaluation (FCE) or

1 ~~Physical Capacity Evaluation (PCE). Any FCE or PCE obtained should measure the worker's capacities and~~
2 ~~impairments. The rehabilitation professional shall obtain a list of~~ work restrictions from the health care provider that
3 ~~[address, addresses~~ the demands of any proposed employment. If ordered by a physician, the rehabilitation
4 professional shall schedule an appointment with a third party provider to evaluate an injured ~~[worker's, employee's~~
5 functional capacity, physical capacity, or impairments to work.

6 ~~(b)(f)~~ The RP, rehabilitation professional shall refer the worker only to opportunities for suitable employment, as
7 defined ~~herein, by Item (5) of Rule .0103 of this Subchapter or by applicable statute.~~

8 ~~(e)(g)~~ If the RP, rehabilitation professional intends to utilize written or videotaped job descriptions in the return-to-
9 work process, the RP, rehabilitation professional shall provide a copy of the description to all parties for review
10 before the job description is provided to the doctor. The ~~worker, employee~~ or the ~~worker's, employee's~~ attorney shall
11 have seven business days from the mailing of the ~~description, job~~ description to notify the RP rehabilitation
12 professional, all parties, and the physician of any objections or amendments ~~to the job description, thereto.~~ The job
13 description and the objections or amendments, if any, shall be submitted to the physician simultaneously. This
14 process ~~may~~ shall be expedited ~~on occasions~~ when job availability is critical. This waiting period does not apply if
15 the [worker, employee or the worker's, employee's] attorney has given prior approval to the job description.

16 ~~(d)(h)~~ In preparing written job descriptions, the RP rehabilitation professional shall utilize standards including, but
17 not limited to, recognized standards which may include but not be limited to the Dictionary of Occupational Titles
18 ~~and/or~~ and the Handbook for Analyzing Jobs published by the U.S. United States Department of Labor, Labor,
19 ~~which are recognized as national standard references for use in vocational rehabilitation. These standards can be~~
20 accessed at no cost at <http://www.oalj.dol.gov/LIBDOT.HTM> and www.wopsr.net/etc/dot/RHAJ.pdf, respectively.
21 The Handbook for Analyzing Jobs may also be purchased from major online booksellers for approximately \$85.00.

22 ~~(e)~~ ~~In identifying proposed employment for the injured worker, the RP should consider the worker's transportation~~
23 ~~requirements.~~

24 ~~(f)(i)~~ The rehabilitation professional may conduct follow-up after job placement ~~may be carried out~~ to verify the
25 appropriateness of the job placement.

26 ~~(g)(j)~~ The RP, rehabilitation professional shall not initiate or continue placement activities ~~which that~~ do not appear
27 reasonably likely to result in placement of the injured worker in suitable employment. The RP rehabilitation
28 professional shall report to the parties when efforts to ~~place the worker in suitable employment~~ initiate or continue
29 placement activities do not appear reasonably likely to result in placement of the injured worker in suitable
30 employment.

31
32 *History Note: Authority G.S. 97-2(22); 97-25.4; 97-25.5; 97-32.2; S.L. 2014-77, Section 6.(4);*

33 *Eff. January 1, 1996;*

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

1 Rule 04 NCAC 10E .0202 is adopted as published on the OAH website for the public comment period beginning
2 August 20 through September 15, 2014, with changes as follows:

3
4 **04 NCAC 10E .0202 HEARING COSTS OR FEES**

5 (a) **(Effective until July 1, 2015)** The following hearing costs or fees apply to all subject areas within the authority
6 of the Commission:

- 7 (1) one hundred twenty dollars (\$120.00) for a hearing before a Deputy Commissioner to be charged
8 after the hearing has been held;
- 9 (2) one hundred twenty dollars (\$120.00) if a case is continued after the case is calendared for a
10 specific hearing date, to be paid by the requesting party or parties;
- 11 (3) one hundred twenty dollars (\$120.00) if a case is withdrawn, removed, or dismissed after the case
12 is calendared for a specific hearing date;
- 13 (4) two hundred twenty dollars (\$220.00) for a hearing before the Full Commission to be charged
14 after the hearing has been held; and
- 15 (5) one hundred twenty dollars (\$120.00) if one of the following occurs after an appeal or request for
16 review is scheduled for a specific hearing date before the Full Commission:
- 17 (A) the appeal or request for review is withdrawn; or
- 18 (B) the appeal or request for review is dismissed for failure to prosecute or perfect the appeal
19 or request for review.

20 In workers' compensation cases, these fees shall be paid by the employer unless the Commission orders otherwise,
21 except as specified in ~~subsection (2)~~ Subparagraph (a)(2) above.

22 (a) **(Effective July 1, 2015)** The following hearing costs or fees apply to all subject areas within the authority of the
23 Commission other than workers' compensation cases:

- 24 (1) one hundred twenty dollars (\$120.00) for a hearing before a Deputy Commissioner to be charged
25 after the hearing has been held;
- 26 (2) one hundred twenty dollars (\$120.00) if a case is continued after the case is calendared for a
27 specific hearing date, to be paid by the requesting party or parties;
- 28 (3) one hundred twenty dollars (\$120.00) if a case is withdrawn, removed, or dismissed after the case
29 is calendared for a specific hearing date;
- 30 (4) two hundred twenty dollars (\$220.00) for a hearing before the Full Commission to be charged
31 after the hearing has been held; and
- 32 (5) one hundred twenty dollars (\$120.00) if one of the following occurs after an appeal or request for
33 review is scheduled for a specific hearing date before the Full Commission:
- 34 (A) the appeal or request for review is withdrawn; or
- 35 (B) the appeal or request for review is dismissed for failure to prosecute or perfect the appeal
36 or request for review.

1 ~~[In workers' compensation cases, these fees shall be paid by the employer unless the Commission orders otherwise,~~
2 ~~except as specified in subsection (2) above.]~~

3 (b) The Commission may waive fees set forth in Paragraph (a) of this Rule, or assess such fees against a party or
4 parties pursuant to G.S. 97-88.1 if the Commission determines that the hearing has been brought, prosecuted, or
5 defended without reasonable ground.

6

7 *History Note:* Authority G.S. 97-73; 97-80; 97-88.1; 143-291.1; 143-291.2; 143-300; S.L. 2014-77;
8 *Eff. November 1, 2014.*

1 Rule 04 NCAC 10E .0203 is adopted as published on the OAH website for the public comment period beginning
2 August 20 to September 15, 2014, with changes as follows:

3
4 **04 NCAC 10E .0203 FEES SET BY THE COMMISSION**

5 (a) **(Effective until July 1, 2015)** In workers' compensation cases, the Commission sets the following fees:

- 6 (1) four hundred dollars (\$400.00) for the processing of a compromise settlement agreement to be
7 paid 50% by the employee and 50% by the employer(s) or the employer's carrier(s). [~~Unless the~~
8 ~~parties agree otherwise, the~~ The employer(s) or the employer's carrier(s) shall pay such fee in full
9 when submitting the agreement to the [Commission, and] Commission and, unless the parties
10 agree otherwise, shall [then] be entitled to a credit for the employee's 50% share of such fee
11 against settlement proceeds;
- 12 (2) three hundred dollars (\$300.00) for the processing of a Form 21 *Agreement for Compensation for*
13 *Disability*, Form 26 *Supplemental Agreement as to Payment of Compensation*, or Form 26A
14 *Employer's Admission of Employee's Right to Permanent Partial Disability* to be paid by the
15 employee and the employer or the employer's carrier in equal shares. The employer or the
16 employer's carrier shall pay such fee in full when submitting the agreement to the Commission.
17 Unless the parties agree otherwise or the award totals \$3,000 or less, the employer and the
18 employer's carrier shall be entitled to a credit for the employee's 50% share of such fee against the
19 award;
- 20 (3) two hundred dollars (\$200.00) for the processing of a I.C. Form MSC5, *Report of Mediator*, to be
21 paid 50% by the employee and 50% by the employer(s) or the employer's carrier(s). The
22 employer(s) or the employer's carrier(s) shall pay such fee in full upon receipt of an invoice from
23 the Commission and, unless the parties agree otherwise, shall be reimbursed for the employee's
24 share of such fees when the case is concluded from any compensation that may be determined to
25 be due to the employee. The employer(s) or the employer's carrier(s) may withhold funds from
26 any award for this purpose; and
- 27 (4) a fee equal to the filing fee required to file of a civil action in the Superior Court division of the
28 General Court of Justice for the processing of a Form 33I *Intervenor's Request that Claim be*
29 *Assigned for Hearing*, to be paid by the intervenor.

30 (a) **(Effective July 1, 2015)** In workers' compensation cases, the Commission sets the following fees:

- 31 (1) four hundred dollars (\$400.00) for the processing of a compromise settlement agreement to be
32 paid 50% by the employee and 50% by the employer(s) or the employer's carrier(s). [~~Unless the~~
33 ~~parties agree otherwise, the~~ The employer(s) or the employer's carrier(s) shall pay such fee in full
34 when submitting the agreement to the [Commission, and] Commission and, unless the parties
35 agree otherwise, shall [then] be entitled to a credit for the employee's 50% share of such fee
36 against settlement proceeds;

1 ~~[(2) three hundred dollars (\$300.00) for the processing of a Form 21 *Agreement for Compensation for*~~
2 ~~*Disability*, Form 26 *Supplemental Agreement as to Payment of Compensation*, or Form 26A~~
3 ~~*Employer's Admission of Employee's Right to Permanent Partial Disability* to be paid by the~~
4 ~~employee and the employer or the employer's carrier in equal shares. The employer or the~~
5 ~~employer's carrier shall pay such fee in full when submitting the agreement to the Commission.~~
6 ~~Unless the parties agree otherwise or the award totals \$3,000 or less, the employer and the~~
7 ~~employer's carrier shall be entitled to a credit for the employee's 50% share of such fee against the~~
8 ~~award;]~~

9 ~~[(3)](2) two hundred dollars (\$200.00) for the processing of a I.C. Form MSC5, *Report of Mediator*, to be~~
10 ~~paid 50% by the employee and 50% by the employer(s) or the employer's carrier(s). The~~
11 ~~employer(s) or the employer's carrier(s) shall pay such fee in full upon receipt of an invoice from~~
12 ~~the Commission and, unless the parties agree otherwise, shall be reimbursed for the employee's~~
13 ~~share of such fees when the case is concluded from any compensation that may be determined to~~
14 ~~be due to the employee. The employer(s) or the employer's carrier(s) may withhold funds from~~
15 ~~any award for this purpose; and~~

16 ~~[(4)](3) a fee equal to the filing fee required to file of a civil action in the Superior Court division of the~~
17 ~~General Court of Justice for the processing of a Form 331 *Intervenor's Request that Claim be*~~
18 ~~*Assigned for Hearing*, to be paid by the intervenor.~~

19 (b) In tort claims cases, the filing fee is an amount equal to the filing fee required to file a civil action in the
20 Superior Court division of the General Court of Justice.

21
22 *History Note:* *Authority G.S. 7A-305; 97-17; 97-26(i); 97-73; 97-80; 143-291.2; 143-300; S.L 2014-77;*
23 *Eff. November 1, 2014.*

1 Rule 04 NCAC 10L .0101 is adopted as published on the OAH website for the public comment period beginning
2 August 20 through September 15, 2014, with changes as follows:

3
4 **SUBCHAPTER 10L – INDUSTRIAL COMMISSION FORMS**
5 **SECTION .0100 – WORKERS’ COMPENSATION FORMS**
6

7 **04 NCAC 10L .0101 FORM 21 – AGREEMENT FOR COMPENSATION FOR DISABILITY**
8

9 (a) **Effective until July 1, 2015** The parties to a workers’ compensation claim shall use the following Form 21,
10 *Agreement for Compensation for Disability*, for agreements regarding disability and payment of compensation
11 therefor pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as payment of
12 compensation for permanent partial disability may also be included on the form. This form is necessary to comply
13 with Rule 04 NCAC 10A .0501, where applicable. The Form 21, *Agreement for Compensation for Disability*, shall
14 read as follows:
15

16 North Carolina Industrial Commission
17 Agreement for Compensation for Disability
18 (G.S. 97-82)
19

20 IC File # _____
21 Emp. Code # _____
22 Carrier Code # _____
23 Carrier File # _____
24 Employer FEIN _____
25

26 The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act
27

28 _____
29 Employee’s Name
30 _____

31 Address
32 _____

33 City State Zip
34 _____

35 Home Telephone Work Telephone

36 Social Security Number: _____ Sex: M F Date of Birth: _____
37

1 _____

2 Employer's Name Telephone Number

3 _____

4 Employer's Address City State Zip

5 _____

6 Insurance Carrier

7 _____

8 Carrier's Address City State Zip

9 _____

10 Carrier's Telephone Number Carrier's Fax Number

11 _____

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

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

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

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

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

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

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

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

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

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

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

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

31 12. IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement
32 is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of
33 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
34 award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer
35 agree otherwise.

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

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

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

2 ~~THE INDUSTRIAL COMMISSION WILL NOT CHARGE A FEE FOR PROCESSING FORM 21~~
3 ~~AGREEMENTS FILED ON OR AFTER JULY 1, 2015.~~

4 _____
5 _____
6 Name Of Employer Signature Title

7 _____
8 Name Of Carrier / Administrator Signature Title

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

12 _____
13 Signature of Employee Address

14 _____
15 Signature of Employee's Attorney Address

16 _____
17 North Carolina Industrial Commission
18 The Foregoing Agreement Is Hereby Approved:

19 _____
20 Claims Examiner Date

21 _____
22 Attorney's Fee Approved

23 _____
24 Check Box If No Attorney Retained.
25 Check Box If Employee Is In Managed Care.

26 _____
27 IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM
28 PAYMENTS

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

33 _____
34 IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL
35 MEDICAL BENEFITS

36 _____

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

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

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

13
14 IMPORTANT NOTICE TO EMPLOYER

15
16 The employee must be provided a copy when the agreement is signed by the employee. ~~Failure to file Form 28B,~~
17 ~~Report Of Compensation And Medical Compensation Paid, within 16 days after last payment pursuant to this~~
18 ~~agreement may subject the employer or carrier/administrator to a penalty.~~ Pursuant to Rule 04 NCAC 10A .0501,
19 within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must
20 submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The employer
21 or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16
22 days after the last payment made pursuant to this agreement or be subject to a penalty.

23
24 NEED ASSISTANCE?

25
26 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at
27 (800) 688-8349.

28
29 Form 21

30 11/2014

31
32 Self-Insured Employer or Carrier, Mail to:

33 NCIC - Claims Section

34 4335 Mail Service Center

35 Raleigh, NC 27699-4335

36 Telephone: (919) 807-2502

37 Helpline: (800) 688-8349

1 **Website: <http://www.ic.nc.gov/>**

2

3 (a) **(Effective July 1, 2015)** The parties to a workers' compensation claim shall use the following Form 21,
4 Agreement for Compensation for Disability, for agreements regarding disability and payment of compensation
5 therefor pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as payment of
6 compensation for permanent partial disability may also be included on the form. This form is necessary to comply
7 with Rule 04 NCAC 10A .0501, where applicable. The Form 21, Agreement for Compensation for Disability, shall
8 read as follows:

9

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

13

14 IC File # _____
15 Emp. Code # _____
16 Carrier Code # _____
17 Carrier File # _____
18 Employer FEIN _____

19

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

21

22 _____

23 Employee's Name

24 _____

25 Address

26 _____

27 City _____ State _____ Zip _____

28 _____

29 Home Telephone _____ Work Telephone _____

30 Social Security Number: _____ Sex: M F Date of Birth: _____

31

32 _____

33 Employer's Name _____ Telephone Number _____

34 _____

35 Employer's Address _____ City _____ State _____ Zip _____

36 _____

37 Insurance Carrier

1 _____
2 Carrier's Address _____ City State Zip

3 _____
4 Carrier's Telephone Number _____ Carrier's Fax Number

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

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

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

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

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

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

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

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

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

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

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

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

25 12. IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement
26 is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of
27 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
28 award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer
29 agree otherwise.

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

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

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

33 _____
34 _____
35 Name Of Employer _____ Signature _____ Title

36 _____
37 Name Of Carrier / Administrator _____ Signature _____ Title

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By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on the Pages 1 and 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 within two

1 years, or your right to these benefits may be lost. To apply you may also use Industrial Commission Form 18M,
2 Employee's Application for Additional Medical Compensation (G.S. 97-25.1), available at
3 http://www.ic.nc.gov/forms.html.

4
5 **IMPORTANT NOTICE TO EMPLOYER**

6
7 The employee must be provided a copy when the agreement is signed by the employee. Failure to file Form 28B,
8 Report Of Compensation And Medical Compensation Paid, within 16 days after last payment pursuant to this
9 agreement may subject the employer or carrier/administrator to a penalty. Pursuant to Rule 04 NCAC 10A .0501,
10 within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must
11 submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The employer
12 or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16
13 days after the last payment made pursuant to this agreement or be subject to a penalty.

14
15 **NEED ASSISTANCE?**

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

19
20 Form 21

21 7/2015

22
23 Self-Insured Employer or Carrier, Mail to:

24 NCIC - Claims Section

25 4335 Mail Service Center

26 Raleigh, NC 27699-4335

27 Telephone: (919) 807-2502

28 Helpline: (800) 688-8349

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

30
31 (b) The copy of the form described in Paragraph (a) of this Rule can be accessed at
32 <http://www.ic.nc.gov/forms/form21.pdf>. The form may be reproduced only in the format available at
33 <http://www.ic.nc.gov/forms/form21.pdf> and may not be altered or amended in any way.

34
35 *History Note: Authority G.S. 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77;*

36 *Eff. November 1, 2014;*

37 *Amended Eff. July 1, 2015, pursuant to S.L. 2014-77, by deleting Item 12. of subsection (a).*

1 Rule 04 NCAC 10L .0102 is adopted as published on the OAH website for the public comment period beginning
2 August 20 through September 15, 2014, with changes as follows:

3
4 **04 NCAC 10L .0102 FORM 26 – SUPPLEMENTAL AGREEMENT AS TO PAYMENT OF**
5 **COMPENSATION**
6

7 (a) **Effective until July 1, 2015** If the parties to a workers' compensation claim have previously entered into an
8 approved agreement on a Form 21, *Agreement for Compensation for Disability*, or a Form 26A, *Employer's*
9 *Admission of Employee's Right to Permanent Partial Disability*, they shall use the following Form 26, *Supplemental*
10 *Agreement as to Payment of Compensation*, for agreements regarding ~~subsequent~~, subsequent additional disability
11 and payment of compensation ~~therefor~~ pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the
12 parties such as payment of compensation for permanent partial disability may also be included on the form. This
13 form is necessary to comply with Rule 04 NCAC 10A .0501, where applicable. The Form 26, *Supplemental*
14 *Agreement as to Payment of Compensation*, shall read as follows:
15

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

19
20 IC File # _____
21 Emp. Code # _____
22 Carrier Code # _____
23 Carrier File # _____
24 Employer FEIN _____
25

26 The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act
27

28 _____
29 Employee's Name
30 _____

31 Address
32 _____

33 City State Zip
34 _____

35 Home Telephone Work Telephone

36 Social Security Number: _____ Sex: M F Date of Birth: _____
37

1 _____

2 Employer's Name Telephone Number

3 _____

4 Employer's Address City State Zip

5 _____

6 Insurance Carrier

7 _____

8 Carrier's Address City State Zip

9 _____

10 Carrier's Telephone Number Carrier's Fax Number

11

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

13 1. Date of injury: _____

14 2. The employee returned to work / was rated on _____ (date), at a weekly wage of \$_____.

15 3. The employee became totally disabled on _____.

16 4. Employee's average weekly wage was reduced / was increased on _____, from \$_____

17 per week to \$_____ per week.

18 5. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate

19 of \$_____ per week.

20 Beginning _____, and continuing for _____ weeks. The type of disability compensation is

21 _____.

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

23 _____.

24 7. IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement

25 is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of

26 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

27 award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer

28 agree otherwise.

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

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

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

32 ~~THE INDUSTRIAL COMMISSION WILL NOT CHARGE A FEE FOR PROCESSING FORM 26~~

33 ~~AGREEMENTS FILED ON OR AFTER JULY 1, 2015.~~

34

35 8. The date of this agreement is _____.

36 _____

37 Name Of Employer

Signature

Title

1 Employee's Application for Additional Medical Compensation (G.S. 97-25.1), available at
2 <http://www.ic.nc.gov/forms.html>.

3
4 IMPORTANT NOTICE TO EMPLOYER

5
6 This form ~~is to be used~~ shall be used only to supplement Form 21, *Agreement for Compensation for Disability* (G.S.
7 97-82), or an award in cases in which subsequent conditions require a modification of a former agreement or award.
8 The employee must be provided a copy of the form when the agreement is signed by the employee. ~~Failure to file~~
9 ~~Form 28B, *Report of Compensation and Medical Compensation Paid*, within 16 days after last payment pursuant to~~
10 ~~this agreement may subject the employer or carrier/administrator to a penalty.~~ Pursuant to Rule 04 NCAC 10A
11 .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator
12 must submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The
13 employer or carrier/administrator shall file a Form 28B, *Report of Compensation and Medical Compensation Paid*,
14 within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.

15
16 NEED ASSISTANCE?

17
18 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at
19 (800) 688-8349.

20
21 Form 26
22 11/2014

23
24 Self-Insured Employer or Carrier Mail to:
25 NCIC - Claims Administration
26 4335 Mail Service Center
27 Raleigh, North Carolina 27699-4335
28 Main Telephone: (919) 807-2500
29 Helpline: (800) 688-8349
30 Website: <http://www.ic.nc.gov/>

31
32 (a) (Effective July 1, 2015) If the parties to a workers' compensation claim have previously entered into an
33 approved agreement on a Form 21, *Agreement for Compensation for Disability*, or a Form 26A, *Employer's*
34 *Admission of Employee's Right to Permanent Partial Disability*, they shall use the following Form 26, *Supplemental*
35 *Agreement as to Payment of Compensation*, for agreements regarding ~~subsequent~~, subsequent additional disability
36 and payment of compensation ~~therefor~~ pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the
37 parties such as payment of compensation for permanent partial disability may also be included on the form. This

1 form is necessary to comply with Rule 04 NCAC 10A .0501, where applicable. The Form 26, *Supplemental*
2 *Agreement as to Payment of Compensation*, shall read as follows:

3
4 North Carolina Industrial Commission
5 Supplemental Agreement as to Payment
6 of Compensation (G.S. §97-82)

7
8 IC File #
9 Emp. Code #
10 Carrier Code #
11 Carrier File #
12 Employer FEIN

13
14 The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

15
16 _____

17 Employee's Name
18 _____

19 Address
20 _____

21 City _____ State _____ Zip _____
22 _____

23 Home Telephone _____ Work Telephone _____
24 Social Security Number: _____ Sex: M F Date of Birth: _____

25
26 _____

27 Employer's Name _____ Telephone Number _____
28 _____

29 Employer's Address _____ City _____ State _____ Zip _____
30 _____

31 Insurance Carrier
32 _____

33 Carrier's Address _____ City _____ State _____ Zip _____
34 _____

35 Carrier's Telephone Number _____ Carrier's Fax Number _____
36 _____

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

1 1. Date of injury: _____.

2 2. The employee returned to work / was rated on _____ (date), at a weekly wage of \$ _____.

3 3. The employee became totally disabled on _____.

4 4. Employee's average weekly wage was reduced / was increased on _____, from \$ _____
5 per week to \$ _____ per week.

6 5. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate
7 of \$ _____ per week.

8 Beginning _____, and continuing for _____ weeks. The type of disability compensation is
9 _____.

10 6. State any further matters agreed upon, including disfigurement or temporary partial disability:
11 _____.

12 7. IMPORTANT NOTICE TO EMPLOYEE: The Industrial Commission's fee for processing this agreement
13 is \$300.00 to be paid in equal shares by the employee and the employer. You are not required to pay your portion of
14 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
15 award is more than \$3,000.00, the employer shall deduct \$150.00 from your award, unless you and your employer
16 agree otherwise.

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

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

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

20
21 8.7. The date of this agreement is _____.

22
23 Name Of Employer _____ Signature _____ Title _____

24
25 Name Of Carrier/Administrator _____ Signature _____ Title _____

26
27 By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on
28 Pages 1 and Page 2 of this form.

29
30 Signature of Employee _____ Address _____

31
32 Signature of Employee's Attorney _____ Address _____

33
34 Check box if no attorney retained.

35
36 North Carolina Industrial Commission

37 The Foregoing Agreement Is Hereby Approved:

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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 5 JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred before 5 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 5 JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred on or after 5 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

This form ~~is to be used~~ shall be used only to supplement Form 21, *Agreement for Compensation for Disability (G.S. 97-82)*, or an award in cases in which subsequent conditions require a modification of a former agreement or award. ~~The employee must be provided a copy of the form when the agreement is signed by the employee. Failure to file Form 28B, *Report of Compensation and Medical Compensation Paid*, within 16 days after last payment pursuant to this agreement may subject the employer or carrier/administrator to a penalty. Pursuant to Rule 04 NCAC 10A .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~~

1 employer or carrier/administrator shall file a Form 28B, *Report of Compensation and Medical Compensation Paid*,
2 within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.

3
4 NEED ASSISTANCE?

5
6 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at
7 (800) 688-8349.

8
9 Form 26

10 7/2015

11
12 Self-Insured Employer or Carrier Mail to:

13 NCIC - Claims Administration

14 4335 Mail Service Center

15 Raleigh, North Carolina 27699-4335

16 Main Telephone: (919) 807-2500

17 Helpline: (800) 688-8349

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

19
20 (b) The copy of the form described in Paragraph (a) of this Rule can be accessed at
21 <http://www.ic.nc.gov/forms/form26.pdf>. The form may be reproduced only in the format available at
22 <http://www.ic.nc.gov/forms/form26.pdf> and may not be altered or amended in any way.

23
24 *History Note: Authority G.S. 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77;*

25 *Eff. November 1, 2014;*

26 *Amended Eff. July 1, 2015, pursuant to S.L. 2014-77, by deleting Item 7. of subsection (a).*

1 Rule 04 NCAC 10L .0103 is adopted as published on the OAH website for the public comment period beginning
2 August 20 through September 15, 2014, with changes as follows:

3
4 **04 NCAC 10L .0103 FORM 26A – EMPLOYER’S ADMISSION OF EMPLOYEE’S RIGHT TO**
5 **PERMANENT PARTIAL DISABILITY**

6
7 (a) **Effective until July 1, 2015** The parties to a workers’ compensation claim shall use the following Form 26A,
8 *Employer’s Admission of Employee’s Right to Permanent Partial Disability*, for agreements regarding the
9 employee’s entitlement to and the employer’s payment of compensation for permanent partial disability pursuant to
10 G.S. 97-31. Additional issues agreed upon by the parties, ~~including, but not limited to,~~ such as election of payment
11 of temporary partial disability pursuant to G.S. ~~97-30~~ 97-30, may also be included on the form. This form is
12 necessary to comply with Rule 04 NCAC 10A .0501, where applicable. The Form 26A, *Employer’s Admission of*
13 *Employee’s Right to Permanent Partial Disability*, shall read as follows:

14
15 North Carolina Industrial Commission
16 Employer’s Admission of Employee’s Right to Permanent Partial Disability
17 (G.S. §97-31)

18
19 IC File # _____
20 Emp. Code # _____
21 Carrier Code # _____
22 Carrier File # _____
23 Employer FEIN _____

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

26
27 _____
28 Employee’s Name
29 _____
30 Address
31 _____
32 City State Zip
33 _____
34 Home Telephone Work Telephone
35 Social Security Number: _____ Sex: M F Date of Birth: _____
36
37 _____

1 Employer's Name Telephone Number

2 _____

3 Employer's Address City State Zip

4 _____

5 Insurance Carrier

6 _____

7 Carrier's Address City State Zip

8 _____

9 Carrier's Telephone Number Carrier's Fax Number

10

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

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

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

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

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

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

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

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

24 7. Claimant was released with permanent restrictions without permanent restrictions.

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

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

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

29 Total amount of permanent partial disability compensation is \$_____. Date of first
30 payment:_____.

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

33 _____.

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

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

1 Attorney's fee approved

2

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

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

8

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

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

13

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

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

23

24 IMPORTANT NOTICE TO EMPLOYER

25 The employee must be provided a copy when the agreement is signed by the employee. ~~Failure to file Form 28B,~~
26 ~~Report Of Compensation And Medical Compensation Paid, within 16 days after last payment pursuant to this~~
27 ~~agreement may subject the employer or carrier/administrator to a penalty.~~ Pursuant to Rule 04 NCAC 10A .0501,
28 within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must
29 submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The employer
30 or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16
31 days after the last payment made pursuant to this agreement or be subject to a penalty.

32

33 NEED ASSISTANCE?

34 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at
35 (800) 688-8349.

36

37 Form 26A

1 11/2014

2

3 Self-Insured Employer or Carrier Mail to:

4 NCIC - Claims Administration

5 4335 Mail Service Center

6 Raleigh, North Carolina 27699-4335

7 Main Telephone: (919) 807-2500

8 Helpline: (800) 688-8349

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

10

11 (a) (Effective July 1, 2015) The parties to a workers' compensation claim shall use the following Form 26A,
12 Employer's Admission of Employee's Right to Permanent Partial Disability, for agreements regarding the
13 employee's entitlement to and the employer's payment of compensation for permanent partial disability pursuant to
14 G.S. 97-31. Additional issues agreed upon by the parties, including, but not limited to, such as election of payment
15 of temporary partial disability pursuant to G.S. 97-30 97-30, may also be included on the form. This form is
16 necessary to comply with Rule 04 NCAC 10A .0501, where applicable. The Form 26A, Employer's Admission of
17 Employee's Right to Permanent Partial Disability, shall read as follows:

18

19 North Carolina Industrial Commission

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

21 (G.S. §97-31)

22

23 IC File # _____

24 Emp. Code # _____

25 Carrier Code # _____

26 Carrier File # _____

27 Employer FEIN _____

28

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

30

31 _____

32 Employee's Name

33 _____

34 Address

35 _____

36 City State Zip

37 _____

1 Home Telephone Work Telephone

2 Social Security Number: Sex: M F Date of Birth:

3 _____
4 _____

5 Employer's Name Telephone Number

6 _____

7 Employer's Address City State Zip

8 _____

9 Insurance Carrier

10 _____

11 Carrier's Address City State Zip

12 _____

13 Carrier's Telephone Number Carrier's Fax Number

14 _____

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

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

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

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

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

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

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

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

28 7. Claimant was released with permanent restrictions without permanent restrictions.

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

33 Total amount of permanent partial disability compensation is \$ _____. Date of first
34 payment: _____.

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

37 _____

1 Claims Examiner _____ Date

2 _____
3 Attorney's fee approved

4
5 IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM
6 PAYMENTS

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

10
11 IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL
12 MEDICAL BENEFITS

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

15
16 IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL
17 MEDICAL BENEFITS

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

25
26 IMPORTANT NOTICE TO EMPLOYER

27 The employee must be provided a copy when the agreement is signed by the employee. ~~Failure to file Form 28B,~~
28 ~~Report Of Compensation And Medical Compensation Paid,~~ within 16 days after last payment pursuant to this
29 ~~agreement may subject the employer or carrier/administrator to a penalty. Pursuant to Rule 04 NCAC 10A .0501,~~
30 ~~within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must~~
31 ~~submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The employer~~
32 ~~or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16~~
33 ~~days after the last payment made pursuant to this agreement or be subject to a penalty.~~

34
35 NEED ASSISTANCE?

36 If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at
37 (800) 688-8349.

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Form 26A

7/2015

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/>

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

History Note: Authority G.S. 97-30; 97-31; 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77; Eff. November 1, 2014; Amended Eff. July 1, 2015, pursuant to S.L. 2014-77, by deleting Item 12. of subsection (a).