

SECTION .0400 – SUBPOENAS FOR INITIAL APPEALS

04 NCAC 24C .0401 ISSUANCE OF SUBPOENAS

(a) Subpoenas to compel the attendance of witnesses and the production of records for any appeal hearing may be issued at the direction of the designated Appeals Referee.

- (1) A subpoena may be issued at the request of a party or on motion of the Appeals Referee.
- (2) Any documentation showing service of the subpoena shall become part of the official hearing record.

(b) Any party's request for a subpoena to be issued by the Appeals Referee shall be in writing, sent to the Appeals Referee, and shall include:

- (1) the name of the party requesting the subpoena;
- (2) the claimant's name, if applicable;
- (3) the employer's name, if applicable;
- (4) the docket or issue identification number of the case;
- (5) the name, address, and telephone number of each person sought for appearance at the hearing;
- (6) the specific identification of any document, recording, or item sought, including a detailed description of where the item is located;
- (7) the name and address of the individual or party in possession of any item sought; and
- (8) a statement of why the testimony or evidence to be subpoenaed is necessary for a proper presentation of the case.

(c) The request shall be granted only to the extent that the items or testimony sought appears relevant to the issues on appeal.

(d) Legal representatives may issue subpoenas at their own expense only if prior consent is obtained from the designated Appeals Referee.

(e) Subpoenas shall be issued at least five business days before the date of the scheduled hearing.

(f) Service of a subpoena shall be made by delivering a copy to the person, or by registered or certified mail, return receipt requested, unless a party or witness consents to service of the subpoena by other means, including electronic transmission.

(g) Any party or person receiving a subpoena may serve a written objection to the issuance of the subpoena.

- (1) The objection shall be directed to the Appeals Referee listed in the hearing notice prior to the commencement of the hearing and provide reasons for the objection and the relief sought by the objecting party.
- (2) The Appeals Referee shall rule on the objection and notify the parties before the hearing. The Appeals Referee's reasons for the ruling shall be in writing or stated on the record during the hearing.

History Note: Authority G.S. 96-4; 96-15;
Eff. July 1, 2015;
Amended Eff. July 1, 2018.