

11 NCAC 23A .0702 REVIEW OF ADMINISTRATIVE DECISIONS

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

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

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

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

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

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

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

- (1) filing a Motion for Reconsideration addressed to the Commissioner who filed the order; or
- (2) requesting a review to a Full Commission panel by requesting a hearing within 15 days of receipt of the order or receipt of the ruling on a Motion for Reconsideration.

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

History Note: Authority G.S. 97-79(g); 97-80(a); 97-85; S.L. 2014-77; Eff. January 1, 1990; Amended Eff. November 1, 2014; January 1, 2011; June 1, 2000; Recodified from 04 NCAC 10A .0702 Eff. June 1, 2018; Amended Eff. January 1, 2019.