

DEPARTMENT OF LABOR AND ECONOMIC GROWTH
WORKERS' COMPENSATION APPELLATE COMMISSION
ADMINISTRATIVE APPELLATE PROCEDURES

(By authority conferred on the Workers' Compensation Appellate Commission by section 274 of 1969 PA 317, as amended, MCL 418.274 and Executive Reorganization Order No. 2003-1, MCL 445.2011)

R 418.1 Applicability.

Rule 1. These rules apply to practice and procedure before the worker's compensation appellate commission.

History: 1991 AACS.

R 418.2 Filings generally.

Rule 2. (1) All pleadings, transcripts, briefs, and other documents necessary for an appeal shall be filed at the Lansing office of the commission. Each document shall be labeled with the claimant's social security number and a docket number, if assigned.

(2) Filing may be accomplished by hand delivery, by mailing, or by facsimile transmission followed by the original document. A facsimile transmission is deemed to have been received on time if it is received by the commission not later than the last minute of the day of the applicable deadline, as provided in these rules under prevailing Michigan time.

(3) One attorney recipient will be designated by the commission for each party, for the purpose of receiving correspondence from the commission. The attorney whose name appears on the claim for review will be designated as the attorney recipient for that party. An attorney representing an appellee shall file an appearance designating the attorney as attorney recipient. If no such appearance is filed, the attorney last appearing at a hearing before the magistrate, as reflected in the magistrate's order or opinion, will be designated as the attorney recipient for that party. A party may change the attorney recipient by filing a written stipulation with the commission and serving notice of the change on all parties, or by order of the commission on motion for such change.

History: 1991 AACS; 2007 AACS.

R 418.3 Filing of claim for review.

Rule 3. (1) An appeal to the commission shall be commenced when a party files a timely claim for review. An appellant shall provide copies of the filing to all other parties.

(2) Unless otherwise provided by the provisions of Act No. 317 of the Public Acts of 1969, as amended, being S418.101 et seq. of the Michigan Compiled Laws, a claim for review from any party shall be received by the commission not later than 30 days after the mailing date stamped by the bureau of worker's disability compensation on the appealed decision or order. An appellant or appellant's attorney shall sign the claim for review.

(3) A party does not become an appellant or a cross appellant by the party's own labeling of its filings. The commission will determine the status of an appeal in question.

(4) Further time in which to file a claim for review may be granted by the commission for sufficient cause shown.

(5) A request for further time in which to file a claim for review shall be submitted, in writing, and entitled "Motion for Delayed Appeal."

(6) A motion for delayed appeal shall specify why the claim for review is late.

History: 1991 AACS.

R 418.4 Cross appeals.

Rule 4. (1) A cross appeal shall be received by the commission not later than 30 days after the cross appellant has received a copy of the appellant's brief. The cross appellant shall provide all other parties with copies of the cross appeal. There shall be a rebuttable presumption that "receipt of appellant's brief" occurred 5 days after the date of service/ mailing indicated in the proof of service filed by the appellant with the commission.

(2) A cross appeal shall not be filed before the cross appellant receives a copy of the appellant's brief.

(3) There shall not be delayed cross appeals. An extension of time to file a reply brief does not extend the time to file a cross appeal.

(4) If the appellant's appeal is withdrawn or dismissed, the cross appeal is extinguished.

(5) A cross appeal shall be filed on the claim for review form specifically identifying that the party cross appeals the magistrate's decision.

History: 1991 AACS; 2006 AACS; 2007 AACS.

R 418.5 Briefing deadlines in absence of record or pursuant to stipulation to proceed without filing transcript; time transcript considered filed.

Rule 5. For purposes of briefing deadlines, if a stenographic record was not made at hearing, or if the commission has accepted the stipulation of the parties to proceed without the filing of a transcript, a transcript shall be considered to have been filed on the sixtieth day after the filing of the claim for review.

History: 1991 AACS.

R 418.6 Briefs; titles; filing.

Rule 6. (1) A brief shall be entitled "appellant's brief," "appellee's brief," "cross appellant's brief," or "cross appellee's brief" or shall be otherwise appropriately designated.

(2) An appellant's brief shall be filed with the commission not more than 30 days after a transcript is filed. Where there are multiple transcripts, the 30-day period begins to run when the last transcript is received by the commission.

(3) A cross appellant's brief shall be filed with the commission not more than 30 days after the cross appellant receives a copy of an appellant's brief.

(4) An appellee or a cross appellee need not file a brief; however, if the appellee or cross appellee wishes to file a brief, the appellee shall submit the brief to the commission within 30 days after the appellee receives a copy of the appellant's brief. If the cross appellee wishes to file a brief, the cross appellee shall submit a brief to the commission within 30 days after the cross appellee receives the cross appellant's brief. There shall be a rebuttable presumption that "receipt of appellant's or cross appellant's brief" occurred 5 days after the date of service/ mailing indicated in the proof of service filed by the appellant or cross appellant with the commission.

(5) A proof of service shall be filed with the commission with each brief and served upon all parties or their counsel.

History: 1991 AACS; 2006 AACS; 2007 AACS.

R 418.7 Motion practice.

Rule 7. (1) All motions shall be in writing.

(2) A party who files a motion shall provide all other parties with copies of the motion and file proof of service with the commission.

(3) A party has 14 days from the date the motion was filed to respond to the motion.

(4) A motion or response to a motion representing the existence of facts not in the record adopted by the magistrate shall be accompanied by an affidavit from a person with personal knowledge of any facts stated in the motion.

History: 1991 AACS; 2006 AACS.

R 418.8 Extensions of time to comply with rules.

Rule 8. (1) The commission may grant extensions of time to a party to comply with any of these rules for sufficient cause shown, except as otherwise provided in these rules.

(2) An order will issue to "show cause" why an appeal should not be dismissed for failure to timely file a transcript or brief, in all cases except, where a motion for extension of time or a motion to dismiss, for the untimely filing has been filed.

History: 1991 AACS; 2007 AACS.