

Appeals Overview

This information is provided as a courtesy; it does not represent legal advice. If you are unsure about how to apply this information, you should use your own judgment or that of your attorney.

1. Orders Subject to Appeal

A. A party dissatisfied with a full order that requires any party to pay a penalty or benefits, or denies a claimant any benefit or penalty, may file a Petition to Review or a Petition to Review and Request for Transcript with the judge. Section 8-43-301, C.R.S.

B. If a judge has issued a Summary Order, a party dissatisfied with the Order may file a written Request for Specific Findings of Fact and Conclusions of Law within ten working days after the date of mailing of the Summary Order. The request shall be a prerequisite to review under Section 8-43-301, C.R.S. Section 8-43-215, C.R.S.

C. Orders that do not grant or deny penalties or benefits to a party are considered interlocutory and may not be subject to a Petition to Review.

- An order is interlocutory if it does not determine the issues at hearing or grant or deny penalties or benefits, but rather directs some further proceeding preliminary to a final order. Such an order is subject to change by the Office of Administrative Courts before a final order is entered.

2. Petition to Review: An appeal is commenced by filing a written Petition to Review or a Petition to Review and Request for Transcript (hereinafter collectively referred to as "Petition to Review") with the judge.

- The Petition to Review may either be a completed form, or a pleading entitled "Petition to Review."
- The petition to review shall be in writing and shall set forth in detail the particular errors and objections of the petitioner. Section 8-43-301(2), C.R.S.
- The Petition to Review must be filed within twenty days after the date of the Certificate of Service on the order. *Id.*
- The petition to review may be filed by mail, and shall be deemed filed upon the date of mailing, as determined by the certificate of mailing, if the certificate of mailing indicates that the petition to review was mailed to the division or to the Denver office of the office of administrative courts in the department of personnel, as appropriate. *Id.*
- A copy of the Petition to Review must be mailed or delivered to the attorneys for all other parties, and directly to any parties that are not

represented by counsel. The Certificate of Mailing should indicate the Office of Administrative Courts' address, as well as the addresses of the other parties.

3. Transcript of the Hearing: If a transcript is to be included as part of the record on appeal, the transcript must be ordered at the same time the Petition to Review is filed. Section 8-43-301(2), C.R.S.

- If you are requesting a CD of a hearing and this request is in conjunction with an appeal, there will be no fee for the CD if the CD is sent directly to an Appellate Body or a Transcription Service. If you request a CD of a hearing and that CD is to be sent directly to you, a \$1 charge will be assessed as follows: (a) If you want to pick the CD up from the Office of Administrative Courts, the fee will be payable upon pick-up; or (b) If you want to have the CD mailed to you, then you must include with your request a self addressed stamped envelope as well as the \$1 fee.
- Transcripts may be requested by filing a Petition to Review and Request for Transcript form with the judge. The Petitioner must designate a court reporter or transcriptionist on the request, arrange for payment of the transcript, and must request an extension of time if the transcript will not be completed within 25 working days (35 calendar days plus any State holidays) of the date the audio recording is sent to the court reporter or transcriptionist. If the original transcript is not timely filed, the request for the transcript will be stricken, a notice and briefing schedule will issue, and the transcript will not be part of the record on review unless the Petitioner can then show good cause as to why the transcript request should be reinstated.
- The court reporter or transcriptionist may require a deposit be paid before commencing work on the transcript.
- If you are indigent and unable to pay for the cost of a transcript requested in connection with a Petition to Review, you may complete and file with the Division of Workers' Compensation an Application for Indigent Determination (Request for Hearing Transcript). The form must be filed on or before the date the Petition to Review is filed.
- See the Workers' Compensation Hearing Transcription: Frequently Asked Questions (FAQs) for further information.

4. Notice and Briefing Schedule

- Upon completion of the hearing transcript (or if no transcript was requested, upon receipt of the Petition to Review), a Notice and Briefing Schedule will be mailed to the parties.
- The Petitioner will have 20 days from the date of the Notice and Briefing Schedule to file a Brief in Support of the Petition to Review. The opposing parties will have 20 days from the date on the Certificate of Mailing of the Brief in Support to file Briefs in Opposition to the Petition to Review. If the Petitioner does not file a Brief in Support, the opposing party has forty (40) days from the date of the Notice and Briefing Schedule to file a Brief in Opposition. Section 8-43-301(4), C.R.S.
- Once filed, the briefs and the entire hearing record are given to the judge for review. The judge then has thirty (30) days to issue a Supplemental Order or transmit the record to the Industrial Claim Appeals Office for review. *Id.*

5. Supplemental Orders

- If, after reviewing the parties' briefs, the judge determines that the original order should be modified, he or she will issue a Supplemental Order. Supplemental Orders are also subject to appeal by filing a Petition to Review within the timeframes specified above. If a party files a Petition to Review regarding a Supplemental Order, the Brief in Support of the Petition to Review must be filed at the same time. Section 8-43-301(6), C.R.S.

6. Industrial Claim Appeals Office

- If, after reviewing the parties' briefs, the judge determines that the original order should not be modified, the entire hearing record is transmitted to the Industrial Claim Appeals Panel for review. The hearing record is the Office of Administrative Courts' file, but it does not include the Division of Workers' Compensation's file.
- The Industrial Claim Appeals Panel has sixty (60) days from receipt of the record to issue its order. The order may "affirm" the judge's decision, it may "reverse" or "set aside" the judge's decision, or it may "remand" the case back to the judge for further proceedings.
- If an Order of Remand is issued, the Industrial Claim Appeals Office will hold the file for thirty (30) days from the date of its order before retransmitting the file to the administrative law judge.

- If no party appeals the Order of Remand to the Court of Appeals, the file is then returned to the judge, who has an additional thirty (30) days from receipt of the file to comply with the Order of Remand. Section 8-43-318, C.R.S.

7. Colorado Court of Appeals: Any party dissatisfied with an order issued by the Industrial Claim Appeals Panel may further appeal the order to the Colorado Court of Appeals. If no party files a timely appeal, the panel's order becomes final.

- The Notice of Appeal must be filed with the Clerk of the Court of Appeals no later than twenty (20) days after the date on the Certificate of Mailing on the Industrial Claim Appeal Panel's order.
- Once the Notice of Appeal has been filed, the Industrial Claim Appeals Office has sixty (60) days to certify the record and transmit the record to the Court of Appeals. Section 8-43-301(8), C.R.S.
- Upon receipt of the certified record, the Clerk of the Court of Appeals will issue a briefing schedule to the parties. The parties will also be instructed to attend a settlement conference with the Colorado Department of Labor & Employment.
- The Court sits in three-judge panels and decisions are issued by a majority. Usually, opinions are issued within 3-6 weeks after any oral argument. If no oral argument occurs, a decision is usually issued within six months after the last brief is filed.
- Once the Court of Appeals issues its decision, a party dissatisfied with the decision may file a Petition for Rehearing. The Petition for Rehearing must be filed within 14 days of the decision date unless an extension is granted. Petitions may not be longer than six pages.

8. Colorado Supreme Court: Any party dissatisfied with an opinion issued by the Court of Appeals may file a Petition for Certiorari with the Colorado Supreme Court.