

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE

Rule 7 Closure of Claims, Approval of Settlement Agreements and Petitions to Reopen

7-1 CLOSURE OF CLAIMS

- (A) A claim may be closed by order, final admission, or pursuant to paragraph (C) of this section.

- (B) A Final Admission of Liability may be filed based on abandonment of the claim if the claimant:
 - (1) Is not receiving temporary disability benefits; and
 - (2) has not attended two or more consecutive scheduled medical appointments; and
 - (3) has failed to respond within 30 days to a letter from the insurer or the insured asking if the claimant requires additional medical treatment or is claiming permanent impairment. The letter shall be sent to the claimant and the claimant's attorney if the claimant is represented. The letter must also advise the claimant in bold type and capital letters that failure to respond to the letter within 30 days will result in a final admission being filed. If the claimant timely responds to the letter the insurer may not file a Final Admission of Liability pursuant to this rule.

- A. If a claim is abandoned and a Final Admission of Liability is filed pursuant to this rule, an MMI date should not be included.

- B. A copy of the letter sent to the claimant must be attached to the final admission of liability.

- C. If the claimant timely objects to a final admission of liability filed pursuant to this rule the insurer must withdraw the final admission and provide an opportunity for the claimant to attend a medical appointment(s).

- (C) When no activity in furtherance of prosecution has occurred in a claim for a period of at least 6 months, a party may request the claim be closed.
 - (1) The request to close the claim shall include a separate, properly captioned proposed order to show cause and prepared certificate of mailing, along with addressed, stamped envelopes for the claimant, insurer and each attorney of record who has entered an appearance in the case.

- (2) Following receipt of a request to close a claim, the Director may issue the order to show cause why the claim should not be closed. If no response is mailed or delivered within 30 days of the date the order was mailed, the claim shall be closed automatically, subject to the reopening provisions of §8-43-303, C.R.S. If a response is timely received, the Director will determine whether the claim should remain open.
- (D) An application for hearing or for a Division Independent Medical Examination without further action does not automatically constitute prosecution.

7-2 APPROVAL OF SETTLEMENT AGREEMENTS

- (A) A request for approval of a settlement agreement shall be made by filing the following documents:
 - (1) Original settlement agreement PLUS TWO COPIES signed by all parties to the agreement. The agreement shall be signed and sworn to by the claimant. Where the parties do not request an appearance before the director to review the terms of the settlement, this right must be expressly waived in the agreement.
 - (2) A proposed order in the form prescribed by the Division.
 - (3) A completed settlement checklist.
- (B) Whenever a pro se claimant requests approval of a settlement agreement, or whenever a party requests the right to an appearance before the Director to review the terms of the agreement, a settlement proceeding shall be scheduled.
- (C) A settlement proceeding shall be scheduled in the Dispute Resolution office in the Division of Workers' Compensation at least two days in advance, except for good cause shown. All medical reports relevant to the settlement shall be filed with the Dispute Resolution office at least two days prior to the proceeding.

7-3 PETITIONS TO REOPEN

- (A) A claimant or insurer may request to reopen a claim, pursuant to §8-43-303, C.R.S. by submitting a request to reopen on the Division prescribed form. The request must be provided to the other party and all attorneys of record. The request shall state the basis for reopening, and supporting documentation must accompany the request.
 - (1) If the other party agrees to reopen the claim the Division must be notified by the insurer in writing or by admission.
 - (2) Upon request to reopen the requesting party may file an Application for Hearing with the Office of Administrative Courts.

- (B) For those injuries arising after July 2, 1987 at 4:16 p.m. and prior to July 1, 1991, a Petition to Reopen shall be filed when a claimant is requesting a redetermination of the original permanent partial disability award pursuant to Section §8-42-110(3), C.R.S., (repealed 7/1/91). The petition shall be filed with a statement outlining the circumstances of termination from employment.