



## RULE VII

### APPEAL PROCEDURES

#### A. APPEAL OF A SUMMARY ORDER

A party may appeal a summary order by filing a request for specific findings of fact and conclusions of law in accordance with section 8-43-215, C.R.S. Such request shall be a prerequisite to a petition to review under section 8-43-301, C.R.S.

#### B. PETITION TO REVIEW

1. A petition to review filed pursuant to section 8-43-301, C.R.S. shall:
  - a. set forth the date of the order which is the subject of the petition to review and the name of the administrative law judge or director who entered the order.
  - b. include a designation of record which specifies the exact hearing date for any transcript being ordered and the name of the court reporter preparing the transcript.
  - c. be served by mail on all parties at the same time it is filed.
2. A party appealing an order who is appearing without an attorney may use the petition to review form provided by the Division.
3. A petition to review an order of the director shall be filed at the Division's office in Denver. A petition to review an order entered by an administrative law judge shall be filed at the place indicated in the order, or, if a place is not indicated, at the Division's office in Denver.

#### C. REQUESTS FOR TRANSCRIPTS

1. A party designating a transcript as part of the record shall contact the court report(s) directly and make arrangements to pay for the transcript. A court reporter may demand payment of a deposit prior to preparation of a transcript.

2. When arrangements to pay for a transcript have not been made with a court reporter on a timely basis, the court reporter shall notify the Division. Upon such notification, an administrative law judge or the director may determine, after reasonable notice to the parties, that the order of the transcript has been withdrawn. An administrative law judge or the director may then issue a briefing schedule pursuant to section 8-43-301(4), C.R.S.
3. A party who wishes to cancel a request for a transcript shall contact the court report(s) directly. A withdrawal of a petition to review does not automatically cancel a request for a transcript.

**D. SUBMISSION OF BRIEFS**

1. When the transcript(s) designated as part of the record have been filed or the record is otherwise complete, the Division or Division of Administrative Hearings shall issue a briefing schedule in accordance with section 8-43-301, C.R.S.
2. The petitioner's brief shall be titled "Brief in Support of Petition to Review" and shall contain, in the following sequence:
  - a. a short introduction of the matter to be reviewed including the date of the order which is the subject of the petition and the name of the administrative law judge or director who entered the order.
  - b. a statement of the issues presented for review.
  - c. the arguments of the petitioner regarding the issues presented, along with supporting rationale, citations of authority, and references to the record. Where a party relies upon testimony, reference shall be made to the page of the transcript on which the testimony may be found. Where a party relies upon documentary evidence, reference shall be made to the date, author and relevant page(s) of the document relied upon.
  - d. a short conclusion stating the precise relief sought.
3. A brief filed by an opposing party shall be titled, "Brief in Opposition to Petition to Review" and shall be subject to the requirements of paragraph D.2. of this rule.
4. A request for an extension of time in which to file a brief shall be filed within the time period specified for the filing of the brief or the request shall be denied. If the

petitioner has not filed a brief or a request for an extension of time on a timely basis, the opposing parties shall have 40 days after the date of the certificate of mailing of the briefing schedule to file briefs in opposition to the petition to review.

**E. APPEAL OF A SUPPLEMENTAL ORDER**

A petition to review a supplemental order shall be filed with a brief, as provided in section 8-43-301, C.R.S.

**F. WITHDRAWAL OF PETITION TO REVIEW**

A party may withdraw a petition to review by writing a letter addressed to the administrative law judge or director who entered the order which was the subject of the petition to review. If the case has been transmitted to the Industrial Claims Appeal Panel said letter shall be filed with it.

**G. ATTORNEY FEES**

When the Industrial Claims Appeals Panel has determined that a party is entitled to reasonable attorney fees and costs under section 8-43-301(14), C.R.S., the matter shall be remanded to the director for determination of the amount of fees and costs to be awarded. The director may make this determination based on an affidavit of the time spent, and the fees and costs to be awarded. The director may make this determination based on an affidavit of the time spent, and the fees and costs incurred, in responding to the appeal. If there is a dispute concerning the number of hours or the amount of fees and costs incurred in responding to the appeal, the director may refer the matter to an administrative law judge for a hearing, or to a pre-hearing conference or a mediation conference to resolve the disputed issues.