

## PROPOSED AMENDMENTS TO WCAC RULES

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(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 418.2, R 418.4, R 418.6, and R 418.8 are amended as follows:**

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. ~~All documents received after business hours shall be considered filed the next regular business day.~~ **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.**

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" shall be deemed to have 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 ~~no~~ 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.

#### 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 all briefs" filed pursuant to this subrule shall be deemed to have occurred 5 days after the date of service/ mailing indicated in the proof of service filed by the appellant, appellee, or cross appellant or cross appellee 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.

#### 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.**