

4123-3-16 Motions.

(A) Form C-86 motion shall be used to request action from the bureau or commission.

(B) A motion may be submitted by the employee or the employer to seek a determination by the bureau or the commission on any matter not otherwise provided for in these rules. It is appropriate to file a motion in order to secure allowance of a disability or condition not previously considered in a claim. A motion shall not be used as a substitute for an untimely appeal.

(C) A motion shall fully set forth the question presented together with a succinct statement of the action or relief sought.

(D) A motion shall be accompanied by substantial competent proof conforming to the standards established in paragraph (C) of rule 4123-3-09 of the Administrative Code.

(E) Where required, a motion shall contain citations to the legal authorities relied upon.

(F) Except in matters not affecting the rights of the opposite party, the applicant filing a motion shall mail a copy of the motion to the opposite party and the copy of the motion filed with the bureau board or the commission shall indicate that a copy has been so mailed. When in doubt, the applicant shall mail a copy of the motion to the opposite party.

(G) A motion shall bear the signature of the applicant or the applicant's authorized representative.

(H) Failure to comply with the provisions of this rule shall be sufficient reason for the dismissal of the motion.

(I) Motions shall be adjudicated in the same manner as provided in paragraph (A)(7) of rule 4123-3-15 of the Administrative Code, except motions for allowance of a psychiatric disability (paragraph (J) of this rule).

(J) Procedure governing motions for allowance of a psychiatric disability:

(1) A motion requesting that a claim be additionally recognized for a psychiatric condition shall include a typed or printed statement, personally signed and dated by the claimant, setting forth the following declaration: "I am aware that this motion is being filed to request that the bureau or commission recognize my emotional problem, nervous condition, or psychiatric disability as being a result of the injury for which this claim is allowed."

(2) A motion requesting the recognition of an additional condition of a psychiatric nature shall be accompanied by supporting evidence consisting of a report by a

licensed psychiatric specialist, a clinical psychologist, a licensed clinical counselor (LPCC), or a licensed independent social worker (LISW).

(3) The bureau may have the claimant scheduled for an examination by an independent specialist.

(4) If the claimant fails to comply with the bureau's request relating to the motion as provided in paragraphs (J)(1) to (J)(3) of this rule, the bureau shall refer the motion to the commission with a recommendation to dismiss the motion.

(5) If there is no conflict in the evidence or the motion is not contested or disputed, the bureau shall adjudicate the motion. If there is a conflict in the evidence or the motion is contested or disputed, the bureau shall refer the motion to the commission for further consideration.

Effective: 2/10/09
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