

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency Crime Victims' Compensation Commission

Rule No. 262-x-3-.06

Rule Title: Procedure in Contested Cases.

_____ New Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the propounded rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

.....

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

.....

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedures Division of the Legislative Reference Service.

Signature of certifying officer Cassie T. Jones Cassie T. Jones, Ed.D.

Date 5/13/14

ALABAMA CRIME VICTIMS' COMPENSATION COMMISSION

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 262-x-3-.06 Procedure in Contested Cases.

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Commission proposes to amend the rule to provide thirty days notice of the contested case hearing and consolidate the appeal procedure.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Interested persons may present their views in writing to the Alabama Crime Victims' Compensation Commission, 5845 Carmichael RD; Post Office Box 231267, Montgomery, Alabama 36123-1267, or oral comments at 334.290.4420.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Written comments shall be received until the close of record at 5:00 p.m. on July 7, 2014. All comments should be addressed to the contact person listed below or oral comments at 334.290.4420.

CONTACT PERSON AT AGENCY: Kim Z. Martin, General Counsel, Alabama Crime Victims' Compensation Commission, 5845 Carmichael RD; Post Office Box 231267, Montgomery, Alabama 36123-1267.



Cassie T. Jones, Ed.D.
Executive Director

262-X-3-.06 Procedure In Contested Cases.

Authority:

Code of Alabama § 15-23-10(a)(b)(c), (1995), which provides:

(a) Every party to a claim shall be afforded an opportunity to appear and be heard and to offer evidence and argument on any issue relevant to the claim, and to examine witnesses and offer evidence in reply to any matter of an evidentiary nature in the record relevant to the claim.

(b) In a contested case, all parties shall be afforded an opportunity for a hearing after reasonable notice pursuant to regulations promulgated by the commission. A record of the proceedings of the hearing in a contested case shall be made and shall be transcribed upon request of any party who shall pay transcription costs unless otherwise ordered by the commission.

(c) The commission may, without a hearing, settle a claim by stipulation, agreed settlement, consent order or default.

~~(1) _____ All administrative appeal hearings shall be held in accordance with the Alabama Administrative Procedures Act.~~

~~_____ (2) _____ All claimants shall receive a minimum of forty (40) days notice of the administrative appeal hearing.~~

~~_____ (3) _____ Pursuant to Code of Ala. 1975, §41-22-12(a) (2000), the Commission shall deliver to the claimant the notice of administrative appeal hearing by first class mail, postage prepaid, to be effective upon the deposit of the notice in the mail. The notice of the administrative appeal hearing shall also be delivered to the claimant by certified mail, return receipt requested.~~

~~_____ (4) _____ The claimant must sign the request for an administrative appeal hearing in order for it to be processed.~~

- (1) In the event that a crime victims' compensation claim is approved in a modified form, not approved, or approved - but reduced, the Commission shall notify the claimant by certified mail, return receipt requested, within ten (10) calendar days of the Commission's action setting forth the basis of the Commission's decision.
- (2) The claimant shall have the right to appeal the Commission's final decision. The claimant may appeal the final decision by notifying the Commission's Executive Director in writing of the intent to appeal within thirty (30) calendar days of receiving the letter setting forth the Commission's decision. The appeal request must be received by the Commission within thirty (30) calendar days. Regular mail is accepted. However, certified mail is strongly recommended. The claimant must sign the request for a contested case hearing (administrative appeal hearing) in order for it to be processed.
- (3) All contested case hearings shall be held in accordance with the Alabama Administrative Procedures Act.
- (4) All claimants shall receive a minimum of thirty (30) days notice of the contested case hearing.

- (5) Pursuant to §41-22-12(a) Code of Alabama (1975), the Commission shall deliver to the claimant the notice of the contested case hearing by first class mail, postage prepaid, to be effective upon the deposit of the notice in the mail. The notice of the administrative appeal hearing shall also be delivered to the claimant by certified mail, return receipt requested.
- (6) In a contested case hearing, all parties shall be afforded an opportunity to appear and be heard.
- (7) The claimant may request that subpoenas be issued for the contested case hearing.
- (8) The Commission shall render its decision relative to the contested case hearing within ten (10) calendar days of the formal hearing and the claimant will be notified by certified mail, return receipt requested.
- (9) An impartial governmental hearing officer from a list certified by the State of Alabama Personnel Department shall be provided by the Commission to preside over all contested case hearings and perform such parliamentary functions as he/she deems necessary. The Commission shall render the final decision in the claim. A certified court reporter shall be used to transcribe each appeal hearing. A record of the proceedings shall be made and shall be transcribed upon request of any party, who shall pay transcription costs unless otherwise ordered by the Commission.
- (10) The claimant's contested case hearing will be dismissed if he/she fails to appear without good cause.

Author: Dr. Cassie T. Jones

Statutory Authority: ALA. CODE § 15-23-5(14) (1995)

History: Filed May 13, 2014