

**REVISED PROPOSED REGULATION OF THE CHIEF OF THE
HEARINGS DIVISION OF THE DEPARTMENT OF
ADMINISTRATION**

LCB File No. R184-07

August 6, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1 and 11, NRS 616C.295 and 616C.310; §§2-7 and 12, NRS 616C.295; §§8-10 and 13-31, NRS 616C.310.

A REGULATION relating to industrial insurance; establishing a code of conduct for hearing and appeals officers for contested cases; establishing training requirements for such hearing and appeals officers; revising procedures for hearings and appeals of contested cases; and providing other matters properly relating thereto.

Section 1. Chapter 616C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *A hearing or appeals officer shall:*

1. Act in a manner that preserves the integrity, impartiality and independence of hearings in contested cases for compensation conducted pursuant to chapters 616A to 617, inclusive, of NRS and promotes public confidence in such hearings;

2. Act in a manner that avoids the appearance of impropriety, including, without limitation, disclosing any affiliation to a party in a proceeding before the officer;

3. Perform diligently all official duties;

4. Be faithful to the law and decide matters on the basis of the facts and the applicable law, including, without limitation, judicial decisions; and

5. Maintain order and decorum in proceedings before the officer.

Sec. 3. 1. A hearing or appeals officer shall not:

(a) Engage in conduct that reflects adversely on the character, competence or temperament of the officer or on the officer's fitness to serve, including, without limitation, conduct involving misrepresentation, fraud, dishonesty, deceit or felonious criminal behavior.

(b) In the performance of the official duties of the officer, by words or conduct, manifest bias or prejudice because of race, religion, color, age, sex, disability, sexual orientation, national origin, ancestry, marital status or socioeconomic status.

(c) Act in a way that the officer knows or reasonably should know would be perceived by a reasonable person as biased or prejudiced toward any of the parties, witnesses or attorneys to a proceeding or members of the public at a proceeding.

(d) Be swayed by partisan interests, public clamor or fear of criticism.

(e) Allow family, social or other relationships or associations to influence his official conduct or judgment.

(f) Use the position of hearing or appeals officer to advance the private interests of the officer or of any other person.

(g) Convey the impression that any person has any special influence with the hearing or appeals officer.

(h) Serve as an officer, director, trustee or advisor of a private or public corporation or of an educational, religious, charitable, fraternal, political or civic organization if the corporation or organization frequently participates in proceedings that would ordinarily come before the officer.

(i) Use his position as a hearing or appeals officer to solicit funds for any private or public corporation or for any educational, religious, charitable, fraternal, political or civic organization or allow the prestige of his office for such purposes.

(j) Use or disclose nonpublic information acquired by the hearing or appeals officer for any purpose not related to the official duties of such an officer.

(k) Make any public comment about a proceeding within the jurisdiction of the hearing or appeals officer which might reasonably be expected to affect the outcome or impair the fairness of the proceeding. The provisions of this paragraph must not be construed to prohibit a hearing or appeals officer from:

(1) Making public statements in the course of his official duties;

(2) Explaining for the public benefit procedures before the hearing or appeals officer;

(3) Responding to or defending from a criminal charge or civil claim against the hearing or appeals officer; or

(4) Responding to allegations concerning the conduct of the hearing or appeals officer during a proceeding before the officer.

(l) Unless under subpoena, testify under oath as a character witness. The provisions of this paragraph must not be construed to prohibit a hearing or appeals officer from providing a character or ability reference for a person about whom the officer has personal knowledge.

2. A hearing or appeals officer, a spouse of a hearing or appeals officer, or any other person residing in the household of a hearing or appeals officer shall not accept any gift, bequest or loan from any person who has a significant interest in a matter that is or that the hearing or appeals officer has reason to know will be before the officer.

Sec. 4. 1. *Except as otherwise provided in subsection 2, a hearing or appeals officer shall not engage in any communication or contact with a party to a proceeding before the hearing or appeals officer or with any attorney or other representative of a party outside the presence of any other party to the proceeding.*

2. *A hearing or appeals officer may communicate with a party to a proceeding before the hearing or appeals officer or with any attorney or other representative of a party outside the presence of any other party to the proceeding:*

(a) *If the parties to the proceeding or the attorneys or other representatives of the parties are engaged in mediation; or*

(b) *For scheduling or administrative purposes or for emergencies that do not address substantive matters or issues on the merits relating to the proceeding before the hearing or appeals officer and if the officer reasonably believes that no party or attorney or other representative of a party will gain a procedural or tactical advantage as a result of the communication.*

3. *A hearing or appeals officer shall disclose promptly to all parties to the proceeding any communication made pursuant to subsection 2. A disclosure required pursuant to this subsection must identify:*

(a) *The person with whom the communication occurred; and*

(b) *The substance of the communication.*

4. *A hearing or appeals officer shall provide the parties to whom a communication is disclosed pursuant to subsection 3 a reasonable opportunity to respond to the disclosure.*

Sec. 5. As used in NRS 616C.300 and 616C.340, the Chief of the Hearings Division interprets the terms “conflict of interest” and “personal interest” to include, without limitation:

- 1. A bias or prejudice concerning a party, an attorney or other representative of a party, or any other participant in the proceeding.*
- 2. Knowledge obtained from sources outside of the proceeding of evidentiary facts that are disputed in the proceeding.*
- 3. Service as an attorney in the matter in controversy.*
- 4. Service of an attorney with whom the officer previously has been associated, during the period of association with the officer, as an attorney in the matter in controversy.*
- 5. Being a material witness in the matter in controversy.*
- 6. Having, as an individual or as a personal representative, trustee, conservator or guardian, a financial interest in the matter in controversy or any other interest that could be affected substantially by the outcome of the proceeding.*
- 7. Being, as an individual or as a personal representative, trustee, conservator or guardian, a party to the proceeding.*
- 8. If the spouse, a parent or a child of the hearing or appeals officer, regardless of residence, or any other person residing in the household of the officer:*
 - (a) Has a financial interest in the matter in controversy or any other interest that could be affected substantially by the outcome of the proceeding;*
 - (b) Is a party in the proceeding;*
 - (c) Is an officer, director, partner or trustee of a party in the proceeding;*
 - (d) Is acting as an attorney in the proceeding; or*

(e) To the knowledge of the hearing or appeals officer, is likely to be a material witness in the proceeding.

Sec. 6. 1. *A complaint alleging that a hearing or appeals officer has violated a provision of sections 2 to 5, inclusive, of this regulation must be in writing and submitted to the senior appeals officer.*

2. The senior appeals officer shall investigate any complaint submitted pursuant to subsection 1 and shall notify the complainant of the results of the investigation not more than 60 days after the complaint is received.

3. If the senior appeals officer substantiates the complaint, the senior appeals officer shall report the results of the investigation:

(a) If the complaint involves a hearing officer, to the Director of the Department of Administration.

(b) If the complaint involves an appeals officer, to the Governor.

Sec. 7. 1. *To the extent that money is made available to the Hearings Division for the purpose of training appeals officers, an appeals officer must successfully complete annually at least 20 hours of training, which may include, without limitation, training in:*

(a) Adjudication of administrative law hearings;

(b) Industrial insurance law and practice, including, without limitation:

(1) The provisions of chapters 616A to 617, inclusive, of NRS; and

(2) The provisions of chapters 616A to 617, inclusive, of NAC;

(c) Mediation and other techniques for the resolution of disputes;

(d) Recent relevant statutory and regulatory changes and judicial decisions;

(e) Writing, evidence and ethics;

(f) Any other similar subjects approved by the senior appeals officer; and

(g) Subjects taught in courses:

(1) Offered by the National Judicial College or the National Association of Administrative Law Judiciary or attended by an appeals officer to meet the requirements of the State Bar of Nevada for continuing legal education; and

(2) Approved for the purposes of this section by the senior appeals officer, including, without limitation, any training provided by the Hearings Division.

2. Excess hours of training earned during a 12-month period may be carried over to the following year.

3. The senior appeals officer shall review the past experience of each newly appointed appeals officer to determine the training, if any, that is required immediately for that particular officer to carry out his duties and, if necessary, shall develop a plan for such training after consulting with the appeals officer.

Sec. 8. 1. *If an insurer fails to respond to a written request for a determination within 30 days after receipt of such a request, the person who made the request may:*

(a) File a request for a hearing before a hearing officer pursuant to subsection 3 of NRS 616C.315; or

(b) Resubmit the written request for a determination to the insurer.

2. A failure to file a request for a hearing within the time period specified in subsection 3 of NRS 616C.315 does not preclude a person from resubmitting a written request for a determination to the insurer.

Sec. 9. 1. *Except as otherwise provided in subsection 3, if a hearing officer receives an appeal of a final determination of an insurer that does not include, if applicable, a copy of the*

letter of the determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination, the hearing officer shall notify the claimant in writing that the claimant must, within 15 days after the date on which the hearing officer sends the notification, provide to the hearing officer:

(a) A copy of the letter of determination;

(b) If the letter of determination is unavailable, the date of the determination and the issues stated in the determination; or

(c) Proof that a letter of determination had been requested from the insurer or third-party administrator by the claimant.

↳If the hearing officer does not receive such documentation by the date specified in the notice sent pursuant to this subsection, the hearing officer shall dismiss the appeal without prejudice in a written order for failure to pursue the appeal.

2. A claimant who submits proof that a letter of determination had been requested from the insurer or third-party administrator by the claimant pursuant to subsection 1 may request the hearing officer to issue an order requiring the insurer or third-party administrator to provide a copy of the letter of determination to the hearing officer within 10 days after the date of the order.

3. The provisions of this section do not apply for an appeal of a failure to respond to a request.

Sec. 10. 1. *An appeal of a hearing officer's decision may be consolidated with a case pending before the appeals officer:*

(a) At the request of a party to the appeal of a hearing officer's decision; and

(b) When:

- (1) Both cases involve the same claim and the same parties;*
 - (2) Both cases involve similar questions of fact or law; or*
 - (3) Consolidation would reduce duplication and judicial effort.*
- 2. A request for consolidation must be in writing and must contain:*
- (a) The name of the appeals officer who is hearing the pending case with which the appealed case would be consolidated; and*
 - (b) The appeal number of the pending case.*
- 3. A request for consolidation must be served pursuant to NAC 616C.291 and 616C.294 on all parties who appeared before the hearing officer in the case being appealed.*
- 4. The appeals officer assigned to the case with which consolidation is sought shall approve or deny the request for consolidation not later than 5 days after receiving the request.*

Sec. 11. NAC 616C.260 is hereby amended to read as follows:

616C.260 As used in NAC 616C.260 to 616C.336, inclusive, *and sections 2 to 10, inclusive, of this regulation*, unless the context otherwise requires ~~[, “licensed”]~~:

- 1. “Hearings Division” means the Hearings Division of the Department of Administration.*
- 2. “Licensed representative” means a person who is licensed pursuant to NAC 616C.350 to 616C.377, inclusive.*
- 3. “Senior appeals officer” means the appeals officer designated by the Director of the Department of Administration pursuant to subsection 3 of NRS 232.215 to supervise the administrative, technical and procedural activities of the Hearings Division.*

Sec. 12. NAC 616C.269 is hereby amended to read as follows:

616C.269 ~~[A]~~

1. *To the extent that money is made available to the Hearings Division for the purpose of training hearing officers, a hearing officer must successfully complete ~~such training in mediation and other techniques for the resolution of disputes as may be required by the Chief of the Hearings Division of the Department of Administration.~~ annually at least 20 hours of training, which may include, without limitation, training in:*

(a) Mediation and other techniques for the resolution of disputes;

(b) Industrial insurance law and practice, including, without limitation:

(1) The provisions of chapters 616A to 617, inclusive, of NRS; and

(2) The provisions of chapters 616A to 617, inclusive, of NAC;

(c) Adjudication of administrative law hearings;

(d) Recent relevant statutory and regulatory changes and judicial decisions;

(e) Writing, evidence and ethics; and

(f) Other similar topics approved by the senior appeals officer, including, without limitation, any training provided by the Hearings Division.

2. *Excess hours of training earned during a 12-month period may be carried over to the following year.*

3. *The senior appeals officer shall review the past experience of each newly appointed hearing officer to determine the training, if any, that is required immediately for that particular hearing officer to carry out his duties and, if necessary, shall develop a plan for such training after consulting with the hearing officer.*

Sec. 13. NAC 616C.274 is hereby amended to read as follows:

616C.274 1. A request for a hearing before a hearing officer or a notice of appeal filed with the Hearings Division ~~of the Department of Administration~~ must be filed:

(a) On a form provided by an insurer, an organization for managed care or the Hearings Division; or

(b) On a similar form approved by the Department of Administration.

2. An insurer or the third-party administrator for an insurer shall provide the following information on each form used to request a hearing:

(a) The name and last known mailing address of the claimant;

(b) The name under which the employer was doing business at the time of the injury and the last known mailing address and telephone number of the employer;

(c) If the insurer is a self-insured employer:

(1) The name, address and telephone number of the self-insured employer; and

(2) The name, address and telephone number of the third-party administrator of the self-insured employer, if any;

(d) The number of the claim; *and*

(e) The date of injury ~~;~~ *and*

~~—(f) If the request is for a hearing before a hearing officer, a copy of the letter of determination of the insurer or, if such a copy is unavailable, the date of the determination of the insurer and the issues stated in the determination.] or, in the case of occupational disease, the estimated or approximate date of injury.~~

Sec. 14. NAC 616C.2745 is hereby amended to read as follows:

616C.2745 ~~[A hearing or]~~ *An* appeals officer shall not convene a hearing on a dispute that is required to be submitted to a procedure for resolving disputes pursuant to NRS 616C.305 until a final decision is rendered pursuant to that procedure or the dispute is not resolved pursuant to that procedure within 14 days after it was submitted.

Sec. 15. NAC 616C.275 is hereby amended to read as follows:

616C.275 1. Parties to a contested claim who wish to forego a hearing before a hearing officer and submit the contested claim directly to an appeals officer must:

(a) If a request for a hearing before a hearing officer has been filed, submit to the hearing officer a written stipulation to forego the hearing before the hearing officer.

(b) If a request for a hearing before a hearing officer has not been filed, submit to a hearing officer a request for a hearing and a written stipulation to forego the hearing before the hearing officer.

2. The written stipulation required by subsection 1 must be ~~[-]~~:

~~—(a) Filed with the hearing officer no later than 10 days before the scheduled hearing; and~~

~~—(b) Signed]~~ *signed* by:

~~[(1)]~~ (a) The claimant's legal counsel;

~~[(2)]~~ (b) The insurer ~~[-]~~ *or a third-party administrator*; and

~~[(3)]~~ (c) The employer, if the employer has notified the parties or the Hearings Division ~~[of the Department of Administration]~~ that he will participate in the contested claim.

~~[(3) — If a contested claim is submitted directly to an appeals officer pursuant to a written stipulation of the claimant and insurer and the employer objects thereto, the employer must file with the appeals officer a written objection to the stipulation within 15 days after receipt of the order submitting the contested claim to the appeals officer. The appeals officer shall rule on the objection within 10 days after receipt of the objection. If the appeals officer determines that the submission of the contested claim directly to an appeals officer is not appropriate, he shall remand the contested claim to a hearing officer. If the appeals officer determines that the~~

~~submission of the contested claim directly to an appeals officer is appropriate, he shall schedule a hearing pursuant to subsection 5 of NRS 616C.345.]~~

Sec. 16. NAC 616C.2755 is hereby amended to read as follows:

616C.2755 1. A party, other than a ~~[handicapped person,]~~ *person with a communications disability*, who requires assistance in interpreting the English language during any hearing held before a hearing officer must arrange for such assistance, at no cost to the Hearings Division, ~~[of the Department of Administration,]~~ before the scheduled hearing.

2. A party who requires assistance in interpreting the English language ~~[during any proceeding]~~ *for the purposes of presenting testimony* before an appeals officer must notify the appeals officer in writing at least 10 days before the hearing that such assistance is required. *The notice must include an affirmation that the party requesting interpretive assistance intends to present testimony at the hearing and that the testimony is necessary to establish an element of his appeal before the appeals officer.* The appeals officer shall appoint an interpreter and arrange for ~~[him]~~ *the interpreter* to ~~[attend]~~ *interpret testimony at* the hearing at no cost to the party who requires such assistance.

3. As used in this section, ~~[“handicapped person”]~~ *“person with a communications disability”* has the meaning ascribed to it in NRS 50.050.

Sec. 17. NAC 616C.277 is hereby amended to read as follows:

616C.277 1. An appeals officer may schedule a prehearing conference in any appeal filed to discuss settlement, discovery, scheduling, or other matters pertinent to the appeal ~~[and]~~, *including, without limitation:*

(a) Expedition of the pending case.

(b) Hearing motions.

(c) *Submission of documentary evidence.*

(d) *Narrowing the issues.*

(e) *Setting a convenient date for the primary hearing.*

2. *An appeals officer* may enter any order relating to ~~[those]~~ *the* matters ~~[-~~

~~—2. If an appeals officer is requested pursuant to subsection 6 of NRS 616C.345 to schedule a hearing within 60 days or more than 90 days after the date the notice of appeal is filed, the appeals officer may consider the request at any prehearing conference scheduled pursuant to] described in~~ subsection 1.

Sec. 18. NAC 616C.278 is hereby amended to read as follows:

616C.278 **1.** In addition to a prehearing conference authorized pursuant to NAC 616C.277, an appeals officer may, in regard to any proceeding that is being heard before him:

~~[1.]~~ (a) Call the parties to the proceeding together for a conference to be held before the taking of testimony; and

~~[2.]~~ (b) Recess the proceeding to hold a conference,

↳ to address any matter that, in the opinion of the appeals officer, will assist in securing the just, speedy and economical determination of the issues that are in question in the proceeding. If an appeals officer conducts a conference pursuant to this section, the appeals officer shall ensure that the official record of the proceeding contains a notation that sets forth the results of such a conference.

2. *The parties to a proceeding before an appeals officer may request that the matter be assigned for mediation. Upon receipt of such a stipulated motion, the matter will be assigned to another appeals officer. The parties may agree by stipulation to assign the mediation to a*

specific appeals officer. The appeals officer initially assigned to the matter maintains jurisdiction over the pending matter unless the matter is resolved by mediation.

Sec. 19. NAC 616C.279 is hereby amended to read as follows:

616C.279 **1.** If a party who appeals fails to appear after due notice has been given and good cause is not shown for the failure to appear, the hearing officer or appeals officer may dismiss the case with prejudice.

2. *An appeals officer may dismiss with prejudice an appeal by a party who received notice of a hearing before a hearing officer, failed to appear at or participate in the hearing before the hearing officer and failed to show cause for his failure to appear at the hearing.*

Sec. 20. NAC 616C.282 is hereby amended to read as follows:

616C.282 If a party or his counsel *or licensed representative* fails or refuses to comply with NAC 616C.274 to 616C.336, inclusive, *and sections 8, 9 and 10 of this regulation*, the hearing or appeals officer may make such orders as are necessary to direct the course of the hearing, including, but not limited to, the following:

1. Continue the hearing until the party or counsel *or licensed representative* complies with the requirements.

2. Restrict or prohibit the introduction of evidence.

3. Dismiss the matter.

4. *If the failure or refusal to comply is by a licensed representative, refer the matter to the senior appeals officer for appropriate action pursuant to NAC 616C.350 to 616C.377, inclusive.*

5. *If the failure or refusal to comply is by an insurer or a third-party administrator, refer the matter to the Commissioner of Insurance for appropriate action.*

6. If the failure or refusal to comply is by an attorney licensed in this State, refer the matter to the State Bar of Nevada for appropriate action.

Sec. 21. NAC 616C.291 is hereby amended to read as follows:

616C.291 For the purposes of NAC 616C.282 to 616C.336, inclusive ~~[1]~~, *and sections 8, 9 and 10 of this regulation:*

1. Filing occurs when the original document is received by and is in the actual physical custody of the ~~[agency or officer with whom the document must be filed.]~~ *Hearings Division.*

2. A document *over five pages in length* may not be filed by facsimile ~~[1]~~ *unless so ordered or approved in advance by a hearing or appeals officer.* If a document *which is five pages or less in length* is received by facsimile, the document will be accepted and the date of receipt stamped on the document. If a document is received by facsimile and the original of the document is received within 3 business days after it is received by facsimile, the original will be stamped with the date it is received, but shall be deemed filed on the date the facsimile was received.

~~[2.]~~ 3. *A document may be filed by electronic mail upon prior written approval of the Hearings Division. A document filed by electronic mail must be:*

(a) Accompanied by an acknowledgement of receipt.

(b) Sent to the secretary for the hearing or appeals officer and to each party to the proceeding.

4. Except as otherwise provided in subsection 5 of NRS 616C.345, if service is to be made upon a party represented by counsel or by a licensed representative, the service must be made upon counsel or the licensed representative unless service upon the party is ordered by the appeals officer.

~~[3.]~~ 5. Except as otherwise provided in subsection ~~[6.]~~ 8, service upon counsel or upon a party must be made by delivering or mailing a copy of the document to the counsel or the party at his last known address or, if the address is not known, by leaving the copy at the office of the hearing or appeals officer.

~~[4.]~~ 6. Delivery of a copy of the document is made by:

- (a) Handing it to the party or his counsel;
- (b) Leaving it at the office of the party or his counsel with a clerk or other person in charge thereof or, if there is no one in charge, leaving it in a conspicuous place therein; or
- (c) Leaving it at the dwelling house or usual place of abode of the person to be served with some person of suitable age and discretion residing therein.

~~[5.]~~ 7. Service by mail is complete upon mailing. Any document served by mail shall be deemed received 3 days after it is mailed.

~~[6.]~~ 8. If requested by a party or his counsel, the Hearings Division ~~[of the Department of Administration]~~ will serve a document upon the party or his counsel by placing the document in a folder maintained for that purpose at the *Hearings* Division's office. If such a folder is maintained by the *Hearings* Division, it will be available for inspection by the party or his counsel during the regular business hours of the *Hearings* Division. A document served pursuant to this subsection shall be deemed received 3 days after the document is placed in the party's folder.

Sec. 22. NAC 616C.297 is hereby amended to read as follows:

616C.297 1. Within the times prescribed in subsection 2, all parties shall file with the appeals officer and serve upon all other parties:

- (a) All documents to be introduced as evidence at the hearing;

- (b) A statement of the issues to be raised;
- (c) A list of witnesses, a brief summary of proposed testimony, and a statement whether any of the testimony is to be taken by use of the telephone; and
- (d) An estimate of the length of time required to present the case, including rebuttal testimony and argument.

2. Except as otherwise provided in NAC 616C.305 or as otherwise ordered by an appeals officer after any prehearing conference conducted by the appeals officer, the materials required under subsection 1 must:

- (a) Be filed by the appellant at least 14 days before the scheduled hearing;
- (b) Be filed by a respondent at least 7 days before the scheduled hearing;
- (c) Include a comprehensive index; *and*
- (d) Include pages that are separately numbered. ~~}; and~~
- ~~—(e) Be accompanied by a cover sheet approved by the Hearings Division of the Department of Administration, with no other attachments.]~~

Sec. 23. NAC 616C.303 is hereby amended to read as follows:

616C.303 1. Papers and documents filed pursuant to NAC 616C.282 to 616C.336, inclusive, *and sections 8, 9 and 10 of this regulation*, need not conform to any particular format.

- 2. All papers and documents and copies thereof must be legible.
- 3. A party shall furnish to the counsel for any other party, or to the party if he is not represented by counsel, copies of all papers and documents served upon any party or filed with the appeals officer.
- 4. Papers and documents offered as evidence, except for good cause shown, must not be marked with highlighting, underlining, any annotation, or other device that serves to draw

attention to one part of the document over another part or one document over another document or to comment on the contents of the document.

5. *Papers and documents submitted to an appeals officer must:*

(a) *Have any personal identifying information redacted; and*

(b) *If personal identifying information has been redacted, include an affirmation that the submitted papers and documents do not contain the personal identifying information of any person,*

↳ unless the identity of the person is at issue.

6. *Papers and documents submitted without the affirmation required pursuant to paragraph (b) of subsection 5 must not be accepted into evidence in any proceeding before an appeals officer.*

7. *As used in this section, “personal identifying information” has the meaning ascribed to it in NRS 616C.310.*

Sec. 24. NAC 616C.305 is hereby amended to read as follows:

616C.305 1. A party who wishes ~~[a hearing or]~~ ***an*** appeals officer to permit discovery by deposition, ~~[or]~~ interrogatories ***or production of documents*** must request such discovery at any prehearing conference held in the matter or submit a written application to that officer at least 30 days before the hearing. The application must:

(a) Set forth the reason why the discovery is necessary; and

(b) Be accompanied by the appropriate orders for discovery.

2. The ~~[hearing or]~~ appeals officer shall approve or deny the application within 5 days after the receipt of the application.

Sec. 25. NAC 616C.307 is hereby amended to read as follows:

616C.307 1. A party who wishes to introduce evidence *before an appeals officer* that is recorded on videotape, *as a digital recording or in any other electronic medium*, must submit to the ~~[hearing or]~~ appeals officer a written request therefor and a summary of the evidence so recorded in the statement of the issues to be raised at the hearing at least 14 days before the hearing or as otherwise allowed by the ~~[hearing or]~~ appeals officer.

2. The ~~[hearing or]~~ appeals officer shall grant or deny the request within 5 days after the receipt of the request.

3. The party requesting the introduction of such evidence shall:

(a) At least 14 days before any hearing, or as otherwise allowed by the ~~[hearing or]~~ appeals officer, provide, *free of charge*, an unedited copy of the evidence to the opposing party ~~[free of charge;]~~ *and, if requested, to the appeals officer;* and

(b) Provide all equipment necessary to display the videotape, *digital recording or other electronic media* at the hearing.

Sec. 26. NAC 616C.312 is hereby amended to read as follows:

616C.312 1. All motions, except those made during the hearing, must be filed with the appeals officer and a copy thereof served by the moving party upon all other parties.

2. Within 10 days after the service of a motion, an opposing party may serve and file its written opposition thereto.

3. ~~[The moving party may serve and file a reply within 5 days after service of the opposition to the motion.~~

~~—4.]~~ Points and authorities may be filed with the motion.

~~[5.]~~ 4. All motions are submitted for decision:

(a) Ten days after the filing of the motion if a written opposition is not filed;

- (b) Five days after the filing of a written opposition; or
- (c) At the time designated by the appeals officer if a hearing on the motion has been ordered.

~~[6.]~~ **5.** The appeals officer may, *by a written order and* for good cause:

- (a) Change any times prescribed in this section; or
- (b) Order a hearing on the motion.

~~[7.]~~ **6.** All motions requesting the entry of an order must include alternate proposed orders approving and denying the motion.

Sec. 27. NAC 616C.315 is hereby amended to read as follows:

616C.315 1. ~~[An appeal from a decision of a hearing officer to an appeals officer does not stay the effectiveness of the decision of the hearing officer.~~

~~—2.]~~ An application for a stay of a decision of a hearing officer must:

- (a) Be filed with an appeals officer;
- (b) Be served on all opposing parties;
- (c) Contain supporting points and authorities; and
- (d) Include alternate proposed orders approving and denying the application.

~~[3.—A]~~

2. *If a party ~~[opposing]~~ wishes to oppose a stay, the party* must file an objection with the appeals officer within 10 days after receipt of a copy of the application for a stay and serve a copy of the objection on all opposing parties. *The moving party may file a reply to the objection not later than 5 days after service of the objection.*

3. *An appeals officer shall not rule on an application filed pursuant to subsection 1:*

(a) If an objection is not timely filed pursuant to subsection 2, until 10 days after the application was filed.

(b) If an objection is timely filed pursuant to subsection 2, until 15 days after the application was filed.

4. ~~[The]~~ An appeals officer may rule on ~~[the]~~ an application *filed pursuant to subsection 1* without a hearing or may schedule a hearing on the application.

Sec. 28. NAC 616C.328 is hereby amended to read as follows:

616C.328 If a party to an appeal seeks judicial review of the opinion of an appeals officer pursuant to NRS 616C.370 ~~[, the]~~ :

1. *The* party shall, within 10 days after receiving the final decision of the court in which judicial review was sought, provide copies of the decision of the court to the appeals officer who rendered the opinion for which judicial review was sought.

2. *The retention period for the files of the appeals officer concerning the appeal does not begin to run until the matter has reached a final determination from the highest court in which review is sought.*

Sec. 29. NAC 616C.300 is hereby amended to read as follows:

616C.300 1. The insurer shall, within 30 days after notice of hearing before an appeals officer or, if a prehearing conference is scheduled in the matter, on or before the date of the conference, copy all documents in the claimant's file relating to the matter on appeal and serve the copies, appropriately indexed, upon the appeals officer and all other parties.

2. The insurer shall, within 2 days before a hearing before a hearing officer, submit the following documents, appropriately numbered and indexed, to the Hearings Division : ~~[of the Department of Administration:]~~

(a) Copies of forms C-3 and C-4 or any similar forms which have been provided to the insurer pursuant to NAC 616A.480;

- (b) A brief statement of the reason for the determination by the insurer; and
- (c) Copies of any other documents in the claimant's file relating to the matter before the hearing officer.

3. ~~If an insurer receives a request from another party to a dispute before a hearing officer at least 10 days before the hearing, the insurer shall provide to that party, at least 2 days before the hearing, a copy of all documents to be submitted to the hearing officer.~~

~~—4.]~~ Any other party to a dispute who submits documents to a hearing officer shall provide copies of the documents to the insurer at the time of the hearing.

Sec. 30. NAC 616C.330 is hereby amended to read as follows:

616C.330 1. Every hearing before an appeals officer must be ~~reported]~~ *recorded* as provided in NRS 616C.360.

2. *A record of a proceeding maintained by the appeals officer is the official record of the proceeding.*

3. *The parties may supplement or amend the record upon a written stipulation approved by the appeals officer.*

4. After a transcript has been filed with the appeals officer, it is available for review in the office of the appeals officer by any ~~interested person.]~~ *party to the proceeding.*

Sec. 31. NAC 616C.276 and 616C.288 are hereby repealed.

TEXT OF REPEALED SECTIONS

616C.276 Purposes for prehearings. (NRS 616C.310)

A prehearing may be held for:

1. Speeding up the pending case.
2. Hearing motions.
3. Mediating a settlement.
4. Submittal of documentary evidence.
5. Narrowing issues.
6. Setting a convenient date for the main hearing.
7. Any other purpose which would facilitate the proceedings.

616C.288 Appeal from decision of Chief. (NRS 616C.310)

An appeal by an insurer from a decision of the Chief of the Industrial Insurance Regulation Section must be made by filing a notice of appeal with an appeals officer within 30 days after the date of service of the Chief's decision.