DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

~~MICHIGAN ADMINISTRATIVE HEARING SYSTEM~~ **MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

ADMINISTRATIVE HEARING RULES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

~~(By authority conferred on the Executive Director of the Michigan Administrative Hearing System by Executive Order Nos. 2005-1, 2011-4, and 2011-6, MCL 445.2021, 445.0230, 445.2032, sections 32 and 49 of 1973 PA 186, MCL 205.732 and 205.749, sections 2233, 12561, and 13322 of 1978 PA 368, MCL 333.2233, 333.12561 and 333.13322 and Executive Reorganization Order Nos. 1997-2 and 1998-2, MCL 29.451 and 29.461, section 57 of 1989 PA 300, MCL 281.1352, parts 31, 32, 41, 55, 63, 111, 115, and 201 of 1994 PA 451, MCL 324.101 to 324.90106, Executive Order 1995-16, MCL 324.99903, section 7 of 1909 PA 106, MCL 460.557, section 2 of 1909 PA 300, MCL 462.2, section 5 of 1919 PA 419, MCL 460.55, article 5, section 6 of 1933 PA 254, MCL 479.6, sections 6 and 6a of 1939 PA 6, MCL 479.6 and 479.6a, section 675, 1949 PA 300, MCL 257.675, section 5 of 1969 PA 200, MCL 247.325, section 23 of 1972 PA 106, MCL 252.323, section 210 of 1956 PA 218, MCL 500.210, section 614 of 1978 PA 368, MCL 333.16141, section 308 of 1980 PA 299, MCL 399.308, and Executive Reorganization Orders 1996-1 and 2003-1, MCL 445.2001, 445.2011, sections 6 and 9 of 1939 PA 280, MCL 400.6 and 400.9, sections 2226 and 2233 of 1978 PA 368, MCL 333.2226 and 333.2233, section 6 of 1939 PA 280, MCL 400.6 and Executive Reorganization Order Nos. 2005-1 and 2011-4, MCL 445.2021 and 445.2030, section 46 of 1974 PA 154, MCL 408.1046, section 12 of 1978 PA 390, MCL 408.482, section 213 of 1969 PA 317, MCL 418.213, and Executive Reorganization Order Nos. 1996-2, 2002-1, and 2003-1, MCL 445.201, 445.2004, 445.2011, section 34 of 1936 PA 1, MCL 421.34, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2011-4, 2011-6, MCL 445.2001, 445.2011, 445.2030, 445.2032, sections 7, 9a and 27 of 1939 PA 176, MCL 423.7, 423.9a, 423.27, and sections 12, 14 of 1947 PA 336, MCL 423.212 and 432.214 and Executive Reorganization Order Nos. 1996-2, 2011-4, and 2011-5, MCL 445.2001, 445.2030, 445.2031, section 2 of 1943 PA 240, MCL 38.2, section 15 of 1964 PA 287, MCL 388.1015, sections 1531, 1531i, 1535a, and 1539b of 1976 PA 451, MCL 380.1531, 380.1531i, 380.1535a, 380.1539b, and Executive Reorganization Order Nos. 1996-1 and 1996-7, MCL 388.993 and 338.994, section 1701 and 1703 of 1976 PA 451, MCL 380.1701, 380.1703 and Executive Order 2005-1, MCL 445.2021, section 6 of 1953 PA 232, MCL 791.206.)~~ (**By authority conferred on the executive director of the Michigan office of administrative hearings and rules by Executive Reorganization Order Nos. 1995-16, 1996-2, 1997-2, 1998-2, 2002-1, 2003-1, 2005-1, 2011-4, 2011-5, 2011-6, 2019-1, and 2019-3, MCL 324.99903, 445.2001, 29.451, 29.461, 445.2004, 445.2011, 445.2021, 445.2030, 445.2031, 445.2032, 324.99923, and 125.1998; section 33 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233; sections 2233 and 13322 of the public health code, 1978 PA 368, MCL 333.2233 and 333.13322; parts 31, 33, 41, 55, 63, 111, 115, and 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3101 to 324.3134, MCL 324.3301 to 324.3315, MCL 324.4101 to 324.4113, MCL 324.5501 to 324.5542, MCL 324.6301 to 324.6321, MCL 324.11101 to 324.11153, MCL 324.11501 to 324.11554, and MCL 324.20101 to 324.20142; section 675 of the Michigan vehicle code, 1949 PA 300, MCL 257.675; section 5 of 1969 PA 200, MCL 247.325; section 23 of the highway advertising act of 1972, 1972 PA 106, MCL 252.323; section 210 of the insurance code of 1956, 1956 PA 218, MCL 500.210; section 46 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1046; section 213 of the worker’s disability compensation act of 1969, 1969 PA 317, MCL 418.213; sections 7, 9a, and 27 of 1939 PA 176, MCL 423.7, 423.9a, and 423.27; sections 12 and 14 of 1947 PA 336, MCL 423.212 and 432.214; and section 2 of the state employees’ retirement act, 1943 PA 240, MCL 38.2)**

R 792.10301, R 792.10302, R 792.10501, R 792.11102, R 792.11501, R 792.11601, and R 792.11609 of the Michigan Administrative Code are amended, and R 792.10601, R 792.10602, R 792.10603, R 792.10604, R 792.10605, R 792.10606, R 792.10607, R 792.10608, R 792.10609, R 792.11301, R 792.11302, R 792.11303, R 792.11304, R 792.11305, R 792.11306, R 792.11307, R 792.11309, R 792.11310, R 792.11311, R 792.11312, R 792.11313, R 792.11314, R 792.11315, R 792.11316, R 792.11317, R 792.11318, R 792.11319, R 792.11320, and R 792.11321 are rescinded, as follows:

PART 3: DEPARTMENT OF ENVIRONMENTAL QUALITY AND DEPARTMENT OF NATURAL RESOURCES

R 792.10301 Scope of rules; statutory procedures; absence of procedures.

Rule 301. (1) These rules govern all contested case proceedings before the department of ~~environmental quality~~ **environment, Great Lakes, and energy** and the department of natural resources and requests for declaratory rulings.

(2) These rules do not apply to proceedings under parts 615 and 617 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.61501 to 324.61527 and MCL 324.61701 to 324.61738.

(3) If a rule does not address an issue of procedure, then chapter 4 of the act~~, 1969 PA 306, MCL 24.271 to MCL 24.287~~ applies.

R 792.10302 Definitions.

Rule 302. ~~(1)~~ As used in this part:

(a) "Department" means the department of ~~environmental quality~~ **environment, Great Lakes, and energy** or the department of natural resources.

(b) "Director" means the director of the department of ~~environmental quality~~ **environment, Great Lakes, and energy** or the department of natural resources.

(c) "Final decision maker" means the director or any other person to whom the director has delegated final decision making authority in contested cases.

PART 5: DEPARTMENT OF TRANSPORTATION

SUBPART A. BUREAU OF HIGHWAY TECHNICAL SERVICES – HEARINGS ON TRAFFIC CONTROL ORDERS

R 792.10501 General rules.

Rule 1501. The general rules of the employment relations commission, R 423.101 to R

423.484, govern practice and procedure in administrative hearings conducted by the ~~Michigan administrative~~ hearing system in cases arising under~~LMA,~~ 1939 PA 176, MCL 423.1 to 423.30, and ~~PERA,~~ 1947 PA 336, MCL 423.201 to 423.217, with the exclusion of parts 2 and 3 of those rules.

~~PART 6: DEPARTMENT INSURANCE AND FINANACIAL SERVICES~~

R 792.10601 ~~Definitions~~ **Rescinded.**

~~Rule 601. (1) As used in these rules:~~

~~(a) “Code” means insuance code of 1956, 1956 PA 218, MCL 500.100 to 500.150.~~

~~(b) "Director” means the director of the Michigan department of insurance and financial services.~~

R 792.10602 ~~Hearing; adjournment; motion.~~ **Rescinded.**

~~Rule 602. A hearing may be adjourned only upon an order of the administrative law judge. The administrative law judge may order an adjournment on his or her own initiative or upon motion of a party. The administrative law judge shall order an adjournment upon stipulation of the parties. Before a hearing, a motion for adjournment shall be made in writing and shall state with specificity the reasons an adjournment is necessary.~~

R 792.10603 ~~Application for intervention; filing.~~ **Rescinded.**

~~Rule 603. Any person seeking to intervene as a party may file an application to intervene. An application for the intervention shall state the grounds for intervention and the supporting facts known at the time of application in a manner that fairly advises the parties and the administrative law judge of any issues of fact or law with which the applicant is concerned. The person who files the application shall attach copies of all the proofs of service for papers served upon parties to the proceeding.~~

R 792.10604 ~~Application for intervention; answers; date of filing.~~ **Rescinded.**

~~Rule 604. A party to a proceeding may file an answer to an application for intervention. An application shall not be granted until all parties have had an opportunity to answer the application. An answer shall be filed within 10 days after the date of service of the application or within any reasonable and shorter period of time established by an order of the administrative law judge. If either the person seeking to intervene or a party files a motion for oral argument on the application, the administrative law judge shall grant the motion. Within 15 days after the filing of an application or within 5 days after any oral argument on the application, the administrative law judge shall rule on the application.~~

R 792.10605 ~~Depositions; interrogatories; discovery.~~ **Rescinded.**

~~Rule 605. The taking and use of depositions, interrogatories, and discovery shall be in the same manner and scope as in the circuit courts of the state pursuant to the Michigan general court rules or as otherwise provided by law. Where a party fails to comply with this rule, on motion by the party seeking to take and use depositions, interrogatories, or discovery, the administrative law judge may, consistent with the provisions of the Michigan general court rules and other applicable law, issue an order to effect this rule.~~

R 792.10606 ~~Refusal to make discovery; order directing compliance; effect of refusal to obey order.~~ **Rescinded.**

~~Rule 606. If a party refuses to comply with an order made under R 792.10605 the administrative law judge may, on his or her own initiative or on motion of a party, issue an order including, but not limited to, any of the following:~~

~~(a) An order that the facts sought by discovery shall be taken to be established for purposes of the proceeding in accordance with the claim of the party obtaining the order.~~

~~(b) An order refusing to allow the noncompliant party to support or oppose designated claims or defenses, or prohibiting the noncompliant party from introducing into evidence designated documents, things, or testimony.~~

~~(c) An order striking pleadings or parts of pleadings.~~

~~(d) An order staying further proceedings until compliance with the order is established.~~

~~(e) An order recommending dismissal of the proceeding or part of the proceeding.~~

~~(f) An order recommending a decision by default against the noncompliant party.~~

R 792.10607 ~~Interlocutory appeals.~~ **Rescinded.**

~~Rule 607. A party may petition the director to reverse an interlocutory order of the administrative law judge. The petition shall state with specificity the factual and legal grounds for the appeal and why there is good cause for the director to rule immediately upon the matter. Other parties shall have 7 days from the date of service of the petition to file a reply, unless the director specifies a shorter or longer response period. If the director finds there is good cause to rule immediately upon the matter, the director shall issue an order affirming or reversing the interlocutory order or shall issue an order requiring additional argument on the matter.~~

R 792.10608 ~~Proposal for decision; exceptions; written arguments.~~ **Rescinded.**

~~Rule 608. The administrative law judge shall specify the date by which a party may file exceptions and written arguments supporting exceptions. Written argument in support of an exception shall specify the facts and the law upon which the party relies and shall, if reference is made to the transcript, include page and volume numbers.~~

R 792.10609 ~~Request for rehearing; objections.~~ **Rescinded.**

~~Rule 609. A request for rehearing pursuant to section 87 of 1969 PA 306, MCL 24.287 shall state the grounds upon which the moving party relies. A party shall file any objections to a request for rehearing within 10 days of being served with the request for rehearing.~~

PART 11. OCCUPATIONAL SAFETY AND HEALTH

SUBPART A. GENERAL PROVISIONS

R 792.11102 Definitions.

Rule 1102. (1) "Act" as used in this part means the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(2) "Board" means the board of health and safety compliance and appeals within the department**.** ~~of licensing and regulatory affairs.~~

(3) "Citation" means a written communication issued by the department to an employer under section 33 of the act, MCL 408.1033.

(4) "Day" means a calendar day.

(5) "Department" means the department of ~~licensing and regulatory affairs~~**labor and economic opportunity**.

(6) "Director" means the director of the department ~~of licensing and regulatory affairs~~or the director’s authorized representative.

(7) "Executive secretary" means secretary to the board.

(8) "Party" means an applicant for relief, an employer cited or seeking a variance, an affected employee or employees, or their authorized representative, a person allowed to intervene, or **the** department.

(9) "Permanent variance" means a written order issued by ~~a~~ **the** department authorizing an employer to deviate from the requirements of an occupational safety or health standard when protection is provided to employees equal to that which would be provided by compliance with the requirements of the standard.

(10) "Temporary variance" means a written order issued by ~~a~~ **the** department authorizing an employer to deviate from the requirements of an occupational safety or health standard ~~prior to~~ **before** the effective date of the standard for the specific period of time necessary for the employer to achieve compliance with the standard.

~~PART 13: WORKERS’ COMPENSATION HEARINGS AND APPEALS~~

~~SUBPART A. WORKERS’ COMPENSATION BOARD OF MAGISTRATES~~

R 792.11301 ~~Scope.~~ **Rescinded.**

~~Rule 1301. (1) These rules apply to practice and procedures before the workers’ compensation board of magistrates under the workers’ disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.~~

~~(2) In the absence of an applicable rule, at the discretion of the magistrate, the Michigan court rules may be considered in proceedings under the workers’ disability compensation act.~~

R 792.11302 ~~Hearing district explained.~~ **Rescinded.**

~~Rule 1302. A hearing district is an area of the state served by 1 or more magistrates as designated by the chairperson of the board of magistrates.~~

~~(2) The basis for assignment of magistrates, establishing disposition deadline dates, and implementing alternative hearings procedures shall be as required by caseload designated by the chairperson of the board of magistrates and the demands of the docket.~~

~~(3) The magistrate in any hearing district shall enforce rules of procedure in the hearing district where he or she is assigned.~~

R 792.11303 ~~Appearances.~~ **Rescinded.**

~~Rule 1303. (1) Unless otherwise indicated by the magistrate, the parties or their attorneys shall personally appear at all pretrials or hearings as may be scheduled. The parties and their attorneys shall appear at a hearing date as may be scheduled and shall be ready to proceed as directed by the magistrate. Failure of the petitioner or the petitioner's attorney to appear in a timely manner and participate in a pretrial or hearing may subject the application for hearing to dismissal. If the respondent or the respondent's attorney fails to appear in a timely manner for a pretrial or hearing, then the magistrate may proceed in the absence of the respondent or the respondent's attorney.~~

~~(2) The board of magistrates may require such information from the parties as may be necessary to monitor the progress of the case, assist in the voluntary exchange of information between parties, and assist in the scheduling of cases.~~

R 792.11304 ~~Case resolution by order and opinion; attorney briefs; correction of mistakes in order or opinion.~~ **Rescinded.**

~~Rule 1304. (1) A case that is assigned to a magistrate shall be resolved by an order and, when applicable, an opinion. A magistrate may direct the attorneys to furnish briefs. The order and, when applicable, the opinion shall be written within 42 days of the closing of the record, except under extenuating circumstances as determined by the chairperson.~~

~~(2) Within the appeal period provided, a magistrate may correct a mistake in the order or opinion if the parties stipulate to the corrections pursuant to section 851 of 1969 PA 317, MCL 418.851. Any corrections shall require a corrected order or opinion, or both, and shall specify the correction made.~~

R 792.11305 ~~Admission of records, reports, memorandum, and data compilation.~~ **Rescinded.**

~~Rule 1305. (1) Not less than 42 days before a hearing, the party intending to introduce a record, memorandum, report, or data compilation shall furnish copies and a notice of intent to all parties, for which a proof of service shall be completed and retained by the noticing party.~~

~~(2) Any party objecting to an exhibit under this rule shall provide written objection to all parties not more than 21 days after receipt of the notice of intent, for which a proof of service shall be completed and retained by the objecting party. An objecting party may schedule cross-examination in response to the record, memorandum, report, or data compilation sought to be admitted under this rule.~~

~~(3) This rule shall not affect the magistrate's discretion to rule on newly discovered evidence.~~

~~(4) The notice of intent, objection, and proof of service shall not be sent to the workers’ compensation agency. Only those records admitted into evidence by a magistrate shall be placed in the hearing system file or maintained by the hearing system.~~

R 792.11306 ~~Subpoena; provision to opposing party; submittal of subpoenaed records; disputes.~~ **Rescinded.**

~~Rule 1306. (1) A subpoena shall be on a hearing system approved form and include all of the following:~~

~~(a)The party requesting a subpoena shall certify that the matter about which the subpoena is requested is pending before the hearing system.~~

~~(b) Magistrate signatures are not necessary for subpoenas. Magistrates may sign subpoenas. A subpoena shall be fully completed before submission to a magistrate for signing.~~

~~(c)The return date indicated on the subpoena shall provide a reasonable time for compliance.~~

~~(d)Magistrates may sign a subpoena for a case that is assigned to another magistrate.~~

~~(2) A copy of a subpoena issued by a magistrate or attorney pursuant to section 853 of 1969 PA 317, MCL 418.853 shall be provided to all parties, or their legal counsel, at the time of issuance.~~

~~(3) The party for whom a subpoena is issued shall immediately do either of the following:~~

~~(a) Provide a complete copy of the records to all parties when received.~~

~~(b) Make the records reasonably available for copying when received.~~

~~(4) All subpoenaed records shall be returned directly to the party requesting the records. The charges for copying records shall be limited to the charges permitted by the workers’ compensation agency health care services in R 418.10118(1).~~

~~(5) Only those records admitted into evidence by a magistrate at a hearing shall be placed in the agency file or maintained by the agency.~~

~~(6) Any dispute arising under this rule shall be brought by motion before the assigned magistrate and shall have a copy of the subpoena attached. A copy of the motion and the subpoena shall be served on all parties, or their counsel, and proof of service filed with the agency.~~

R 792.11307 ~~Scheduling.~~ **Rescinded.**

~~Rule 1307. (1) Within 90 days of the pretrial conference the magistrate shall set a scheduling conference that must be attended by all parties or their attorneys.~~

~~(2) At the scheduling conference the magistrate shall determine, in consultation with the parties, appropriate deadlines for completion of activities to further the progression of the claim to hearing or other resolution.~~

~~(3) Within 180 days of the scheduling conference the magistrate will schedule a status conference, at which time the parties will advise the magistrate as to the status of the claim. A facilitation date and hearing date may be assigned at the status conference. To the extent he or she deems necessary to the orderly processing of the claim, a magistrate may issue a scheduling order.~~

~~(4) This rule shall not apply to cases involving a carrier terminating the voluntary payment of benefits and cases involving a petition to stop or reduce compensation. In the event that a moving party is not ready to proceed to trial on the first scheduled hearing date, the magistrate may waive 60 day status.~~

R 792.11309 ~~Hearing procedures.~~ **Rescinded.**

~~Rule 1309. (1) The magistrate may require all parties to present an opening statement that identifies issues in dispute.~~

~~(2) The party filing the application for benefits must first present evidence in support of the application.~~

~~(3) Unless the magistrate orders otherwise, only one attorney for a party may examine or cross-examine a witness.~~

~~(4) The magistrate may require a final argument after the close of proofs.~~

~~(5) The magistrate may require prehearing or post-hearing briefs to address all issues in dispute.~~

~~(6) Any issue not raised in a pre-hearing brief, opening statement, final argument, or the closing of the record following lay testimony shall be deemed waived.~~

R 792.11310 ~~Hearing completion times.~~ **Rescinded.**

~~Rule 1310. The hearing completion time shall be at the discretion of the magistrate, but it shall not be more than 30 days after the date the hearing commenced. The magistrate may allow an extension beyond this time for good cause shown. At the hearing, the magistrate may call witnesses, issue subpoenas, and order the production of books, records, including hospital records, accounts, and papers that are necessary for the purpose of making a decision.~~

R 792.11311 ~~Final disposition of cases.~~ **Rescinded.**

~~Rule 1311. (1) Except under extenuating circumstances as determined by the chairperson of the board of magistrates, all cases assigned to a magistrate that proceed to hearing shall be resolved by opinion written within 42 days of hearing completion and shall be prepared by the agency for mailing.~~

~~(2) All redemption hearings agreements shall be either approved or denied by the issuance of a redemption order.~~

~~(3) All lump sum advance hearings shall be either approved or denied by the issuance of a lump sum application order.~~

~~(4) In cases that are resolved by voluntary payment there shall be a written voluntary pay agreement.~~

R 792.11312 ~~Disqualification of magistrate.~~ **Rescinded.**

~~Rule 1312. (1) A party may motion to disqualify a magistrate or a magistrate may raise the issue on his or her own initiative.~~

~~(2) A magistrate is disqualified if the magistrate cannot impartially hear a case. Circumstances that may raise issues of inability to impartially hear a case include when a magistrate exhibits any of the following:~~

~~(a) Is an interested party.~~

~~(b) Is personally biased or prejudiced for or against a party or attorney.~~

~~(c) Has been consulted or employed as counsel.~~

~~(d) Was a partner of a party, attorney for a party, or a member of a law firm representing a party within the preceding 2 years.~~

~~(e) Is within the third degree, civil law, of consanguinity or affinity to a person acting as an attorney or within the sixth degree, civil law, to a party.~~

~~(f) Owns, or his or her spouse or minor child owns, a stock, bond, security, or other legal or equitable interest of a corporation that is a party. This subdivision does not apply to any of the following:~~

~~(i) Investments in securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934, 15 U.S.C. §78 et seq.~~

~~(ii) Shares in an investment company registered under the Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq.~~

~~(iii) Securities of a public utility holding company registered under the Public Utility Holding Company Act of 1934, 15 U.S.C. §79 et seq.~~

~~(g) Is disqualified for any other reason of law.~~

~~(3) A motion to disqualify shall be filed within 30 days after the case has been assigned to a magistrate or within 10 days after the party discovers, or with reasonable diligence could have discovered, the information that is the basis of the motion, whichever is later.~~

~~(4) The motion of disqualification shall be stated positively and shall set forth with particularity the factors that would be admissible as evidence to establish the grounds stated in the motion. An affidavit shall accompany a motion.~~

~~(5) The challenged magistrate shall decide the motion. If the challenged magistrate denies the motion, then the challenging party may ask that the motion be referred for decision to another magistrate assigned by the chairperson, except as provided in subrule (6) of this rule.~~

~~(6) If the motion is made after the trial has commenced, then the challenged magistrate shall rule upon the motion. If the motion is denied, then the trial shall be continued by the trial magistrate.~~

~~(7) When a magistrate is disqualified, the chairperson shall assign another magistrate to hear the case.~~

~~(8) The parties may waive actual, potential, or purported conflicts with a magistrate, and that magistrate may then process the claim as he or she deems fit.~~

R 792.11313 ~~Discovery.~~ **Rescinded.**

~~Rule 1313. Discovery provided in 1969 PA 317, MCL 418.301 and MCL 418.401, and applicable case law, shall be equally available to all parties at the discretion and under the supervision of the magistrate.~~

~~SUBPART B. MICHIGAN COMPENSATION APPELLATE COMMISSION~~

R 792.11314 ~~Scope.~~ **Rescinded.**

~~Rule 1314. The rules in this subpart apply to practice and procedure before the Michigan compensation appellate commission in appeals under the workers’ disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941 and are governed by R 792.11301 to R 792.11321.~~

R 792.11315 ~~Filings generally.~~ **Rescinded.**

~~Rule 1315. (1) All pleadings, transcripts, briefs, and other documents necessary for an appeal shall be filed with the Michigan compensation appellate 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, by facsimile transmission, or by other electronic means as prescribed by the Michigan compensation appellate commission followed by the original document. A facsimile transmission is deemed to have been received on time if it is received by the Michigan compensation appellate commission not later than the last minute of the day of the applicable deadline, as provided in these rules under prevailing Michigan time.~~

~~(3) The Michigan compensation appellate commission shall recognize one attorney of record for the purpose of receiving correspondence from the Michigan compensation appellate commission. The attorney of record for the appellant shall be the person signing the claim for review. The attorney of record for the appellee shall be the person filing an appearance for the appellee. Either party may change the attorney of record by filing a stipulation between the current and the new attorney of record or by filing a motion.~~

R 792.11316 ~~Filing of claim for review.~~ **Rescinded.**

~~Rule 1316. (1) An appeal to the Michigan compensation appellate commission shall be commenced when a party files a timely claim for review. An appellant shall provide copies of the filing to all other parties at the time of filing with the Michigan compensation appellate commission.~~

~~(2) Unless otherwise provided by the provisions of 1969 PA 317, MCL 418.101 to 418.941, a claim for review from any party shall be received by the Michigan compensation appellate commission not later than 30 days after the mailing date stamped by the workers’ compensation agency on the appealed decision or order.~~

~~(3) A party does not become an appellant or a cross appellant by the party’s own labeling of its filings. The Michigan compensation appellate commission will determine the status of an appeal in question.~~

~~(4) Further time in which to file a claim for review may be granted by the Michigan compensation appellate commission for sufficient cause shown.~~

~~(5) A request for further time in which to file a claim for review shall be submitted, in writing, and entitled “Motion for Delayed Appeal.”~~

~~(6) A motion for delayed appeal shall specify the reasons why the claim for review is late.~~

R 792.11317 ~~Cross appeals.~~ **Rescinded.**

~~Rule 1317. (1) A cross appeal shall be received by the Michigan compensation appellate 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 at the time of filing with the Michigan compensation appellate commission. There shall be a rebuttable presumption that “receipt of appellant’s brief” by all other parties occurred on the date of service or mailing indicated in the proof of service filed by the appellant with the Michigan compensation appellate 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 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 shall be 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 792.11318 ~~Briefing deadlines without filing transcript; time transcript considered filed.~~ **Rescinded.**

~~Rule 1318. For purposes of briefing deadlines, if a stenographic record was not made at hearing, or if the Michigan compensation appellate commission has accepted the stipulation of the parties to proceed without the filing of a transcript, a transcript shall be considered to have been filed on the same day the filing of the claim for review.~~

R 792.11319 ~~Briefs; titles; filing.~~ **Rescinded.**

~~Rule 1319. (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 Michigan compensation appellate 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 Michigan compensation appellate commission.~~

~~(3) A cross appellant’s brief shall be filed with the Michigan compensation appellate 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. If the appellee or cross appellee wishes to file a brief, the appellee shall submit the brief to the Michigan comopensation appellate 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 brief” occurred by all other parties on the same date of service or mailing indicated in the proof of service filed by the appellant or cross appellant with the Michigan compensation appellate commission.~~

~~(5) A proof of service shall be filed with the Michigan compensation appellate commission with each brief and served upon all parties or their counsel.~~

R 792.11320 ~~Motion practice.~~ **Rescinded.**

~~Rule 1320. (1) All motions shall be in writing.~~

~~(2) A party who files a motion shall provide all other parties with copies of the motion at the time of filing with the Michigan compensation appellate commission and file a proof of service with the Michigan compensation appellate commission.~~

~~(3) A party has 14 days from the date the motion was filed with the Michigan compensation appellate commission to respond to the motion.~~

R 792.11321 ~~Extensions of time to comply with rules.~~ **Rescinded.**

~~Rule 1321. The Michigan compensation appellate 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.~~

PART 15. EMPLOYMENT RELATIONS COMMISSION

R 792.11501 General rules.

Rule 1501. The general rules of the employment relations commission, R 423.101 to R 423.484, govern practice and procedure in administrative hearings conducted by the ~~Michigan administrative~~ hearing system in cases arising under ~~LMA,~~ 1939 PA 176, MCL 423.1 to 423.30, and ~~PERA,~~ 1947 PA 336, MCL 423.201 to 423.217, with the exclusion of parts 2 and 3 of those rules.

PART 16: OFFICE OF RETIREMENT SERVICES

SUBPART A. GENERAL HEARING RULES

R 792.11601 Scope; definitions.

Rule 1601. (1) These rules apply to hearings held under the jurisdiction of the state employees' retirement board, the judges’ retirement board, the state police retirement board, and the public school employees’ retirement board.

(2) As used in these rules:

(a) " Retirement act" means the state employees’ retirement act, 1943 PA 240, MCL 38.1 to 38.69**;**~~,~~ the ~~judges’~~ **judges** retirement act of 1992, 1992 PA 234, MCL 38.2101 to ~~38.2111;~~**38.2670;** the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to ~~38.1648;~~ **38.1674;** or the **public** school ~~employees’~~ **employees** retirement act of ~~1980,~~ **1979,** 1980 PA 300, MCL 38.1301 to ~~38.1309,~~ **38.1437,** as applicable.

(b) "Application" means a request for a benefit provided by an applicable retirement act, including a request to reopen a closed application and a reapplication.

(c) "Board" means the retirement board as defined in the applicable **retirement** act.

(d) "Closed application" means a request by an individual for a benefit provided by the act that was withdrawn by the individual or otherwise never decided by the retirement system or the board.

(e) "Good cause," as used in this part, means the legitimate failure to file a document or a witness list in a timely manner and does not include a person's own careless neglect or inattention to the requirements of these rules.

(f) "Reapplication" means a request by an individual for a benefit provided by the applicable ~~retirment~~ **retirement** act, that was previously decided by the staff of the retirement system or the board.

(3) The terms defined in ~~1943 PA 240, MCL 38.1 to 38.69, 1992 PA 234, MCL 38.2101 to 38.2111, 1986 PA 182, MCL 38.1601 to 38.1648, and 1980 PA 300, MCL 38.1301 to 38.1309,~~ **the retirement act** have the same meaning when used in these rules.

R 792.11609 Medical examination.

Rule 1609. (1) For purposes of deciding eligibility for disability retirement under sections 21 and 24 of **the state employees' retirement act,** 1943 PA 240, MCL 38.21 and 38.24, a medical examination conducted by 1 or more medical advisors means either a personal medical examination of the ~~retirment~~ **retirement** system member or a review of the application and medical records of the member.

(2) If an applicant for a disability retirement under section 21 or 24 of **the state employees' retirement act,** 1943 PA 240, MCL 38.21 and 38.24, ~~of the retirement act~~ fails to submit to a reasonable medical examination requested by the system, the application shall be denied.