

**INDIANA COMPENSATION RATING BUREAU
DISPUTE RESOLUTION COMMITTEE
RULES OF PROCEDURE**

I. INTRODUCTION

These Rules of Procedure for the Indiana Compensation Rating Bureau, Dispute Resolution Committee (“Committee”) are promulgated in compliance with Indiana Code §27-7-2-20.3(C)(2). These Rules of Procedure provide a person or organization who alleges they are aggrieved by the application of a filing of the Indiana Compensation Rating Bureau (“Bureau”) with a set of procedures which shall be utilized in appealing the filing or an action related thereto.

II. INITIATION OF HEARING

- A. Initiation of an Appeal – Any person aggrieved (“Aggrieved Party”) by a filing of Bureau may request in writing to have the action of the Bureau reviewed by the Committee (“DRC Hearing”). In order to initiate a DRC Hearing, the Aggrieved Party must take the following actions:
1. Initiate the DRC Hearing by filing a written notice of appeal (“Notice of Appeal”) at the offices of the Bureau, 5920 Castleway West Drive, Indianapolis, IN 46250.
 2. The Notice of Appeal shall include the following information:
 - a. The Aggrieved Party’s name, business address, telephone number and email address;
 - b. The name and address of any insurance carrier which issued a policy relating to the subject matter of the appeal;
 - c. A plain and concise statement of the nature of the appeal and a description of the specific remedy sought by the Aggrieved Party;
 - d. A description including caption, cause number and county of any pending civil litigation which relates to the subject matter of the DRC Hearing;
 - e. Copies of any documents the Aggrieved Party wishes the Committee to consider as part of the DRC Hearing; and
 - f. The name, business address, telephone number and email address of any attorney representing the Aggrieved Party.

3. Notification of Hearing – Once a Notice of Appeal is filed with the Bureau, the Aggrieved Party shall receive written confirmation notice via regular mail. The confirmation notice shall be mailed to the Aggrieved Party within ten (10) business days of Bureau’s receipt of the Notice of Appeal and shall be in substantially the following form:

Bureau is in receipt of your request for a hearing before the Committee and has forwarded the request to the Chair of the Committee. A hearing will be held within seventy-five (75) days of receipt of your Notice of Appeal. You will be advised of the date and place of the hearing. All decisions of the Committee may be appealed to the Commissioner of the Indiana Department of Insurance.

For good cause shown, any party to the appeal may request in writing a continuance of the hearing date. The Chairperson of the Committee may grant or deny the request for a continuance.

III. PREHEARING PROCEDURES

- A. Responding Party – To the extent the DRC Hearing involves allegations relating to another party such as an insurance carrier (“Responding Party”), that Responding Party shall be promptly notified of the DRC Hearing. The Responding Party shall have fifteen (15) days from the date of the notice to file a written response to the Notice of Appeal with the Bureau (“Response”). The Response shall include the following information:
 1. The Responding Party’s name, business address, telephone number and email address;
 2. A statement of the Responding Party’s position on the allegations made by the Aggrieved Party which should include a statement explaining why the relief sought by the Aggrieved Party should not be granted;
 3. Copies of any documents the Responding Party wishes the Committee to consider as part of the DRC Hearing; and
 4. The name, business address, telephone number and email address of any attorney representing the Responding Party.
- B. Representation by Legal Counsel – All parties appearing before the Committee may be represented by legal counsel. Legal counsel shall file a written appearance with the Bureau.

- C. Communication with Committee Members – A party shall not communicate directly with any Committee member outside of the hearing. All inquiries and filings regarding the DRC Hearing shall be directed to the executive staff of the Bureau.
- D. Hearing Date, Time and Location – The Bureau shall notify in writing all parties and Committee members of the date, time and location of the DRC Hearing.
- E. Witness and Exhibit List – Each party shall file with the Bureau a written witness and exhibit list ten (10) days prior to the scheduled hearing date. The witness list shall include the name, address and telephone number of each witness. The exhibit list shall include the title, date and general description of each exhibit the party intends to introduce into evidence. Each party shall also serve via regular mail each other party with a copy of the witness and exhibit list.
- F. Committee Request For Information – The Committee may request the Bureau staff to supply the Committee with any documents or factual information which the Committee determines may assist it in the evaluation of the Appeal.
- G. Prehearing Briefs and Memoranda – Any party may file a prehearing brief or legal memoranda with the Committee. All such filings shall also be contemporaneously served on the opposing party via regular mail.
- H. Role of Bureau – Prior to the Hearing, Bureau staff shall serve as administrator handling such matters as responding to procedural questions, scheduling the hearing, arranging the hearing location and providing pre-hearing materials to Committee members. Bureau staff shall assist the Committee during the DRC Hearing by providing technical information, relevant documents and responding to Committee inquiries about Bureau filings and procedures. The Bureau shall also maintain the official record of the proceedings. The Bureau shall not vote on any matter coming before the Committee.
- I. Electronic Filing – All documents required to be served or filed via mail may also be served via electronic mail. Any party serving a document electronically should retain a written record of the filing to enable that party to establish that the document was timely served or filed.

IV. MEDIATION

The Bureau encourages the prehearing resolution of disputes between employers and insureds. In that regard, the parties have the option to participate in mediation prior to

the DRC Hearing. To the extent both parties agree to participate in mediation, the following procedures shall be followed:

- A. Each party shall file a confidential mediation statement.
- B. The mediation shall be conducted at the Bureau.
- C. The President of the Bureau, or such other neutral agreed to by the parties, shall serve as mediator.
- D. The mediation process shall generally follow Rule 2.7 of the Rules of Alternative Dispute Resolution, as applicable, adopted by the Indiana Supreme Court.

V. HEARING PROCEDURES

- A. Committee Chairperson – The Committee shall elect a chairperson from its members (the “Chairperson”). The Chairperson shall preside over the DRC Hearing. The Chairperson shall rule on any points of procedure which may arise at the hearing. The Chairperson shall explain the DRC Hearing procedures to the parties at the commencement of the DRC Hearing.
- B. Quorum – A quorum of the Committee shall be present at the DRC Hearing. A quorum shall consist of not less than two (2) public representatives and one (1) insurance industry representative.
- C. Evidence – Each party shall have the right to present evidence at the DRC Hearing in support of its position. Each party shall have the right to call witnesses. The opposing party shall have the right to cross examine each witness. Witnesses shall be sworn by an individual authorized under Indiana law to administer oaths. Rules of evidence shall not apply to the DRC Hearing. However, the Chairperson, upon motion made by a party, may exclude such evidence as the Chairperson deems irrelevant, immaterial, redundant or unreliable.
- D. Opening/Closing Argument – Each party shall be given an opportunity to make an opening and closing argument.
- E. Order of Evidence – The Aggrieved Party shall proceed first to present its evidence at the DRC Hearing. The Responding Party shall next present its evidence. Each party shall have one (1) opportunity to present rebuttal evidence. Each Committee member shall be permitted to ask questions of the parties or any witnesses at any point in the proceedings.
- F. Recording of Hearing – The DRC Hearing may be recorded by mechanical device or transcribed by a reporter at the request of the Chairperson or either

party. Any party requesting that the DRC Hearing be transcribed shall bear the cost thereof. The charges for the transcription shall be paid to the Bureau within thirty (30) days of the DRC Hearing. A copy of any record of the DRC Hearing shall be provided to each party upon written request.

- G. Location of Hearing – The hearing shall take place at the offices of the Bureau or at such other place as determined by the Bureau.
- H. Closing of Hearing – The Committee Chairperson shall announce the DRC Hearing is closed at the completion of the presentation of evidence and the completion of closing arguments. New evidence shall not be considered by the Committee except upon good cause shown by the requesting party.

VI. DELIBERATION PROCESS

- A. Committee Decision – Following completion of the DRC Hearing, the Committee shall retire to executive session to consider the evidence. Bureau staff may attend the deliberation process. The Committee shall consider all evidence and render a decision. Bureau staff may answer technical questions of Committee members, but may not otherwise participate in deliberations of the Committee. The decision shall be determined by a majority vote of the Committee.
- B. Recording of the Decision – The decision of the Committee shall be recorded in writing by the Bureau. Each member of the Committee shall cast an audible vote in favor of or in opposition to the decision to the extent the decision is not unanimous. The Committee Chairperson shall determine the degree to which the decision is explained in the written record. The votes of individual Committee members shall not be recorded.
- C. Notification of Parties – The Bureau shall notify the parties in writing via regular mail of the Committee decision within three (3) business days of the issuance of the decision by the Committee. The Bureau shall maintain a record of the decision as part of its permanent business records consistent with the Bureau’s established document retention policy. The notice shall also set forth the procedures for appealing the Committee decision.

VII. APPEALS PROCEDURE

- A. Right to Appeal – Pursuant to Indiana Code §27-7-2-20.3 a party to a DRC Hearing may appeal the decision of the Committee to the Commissioner of the Indiana Department of Insurance.
- B. Notice of Appeal – A written notice of appeal shall be filed with the Bureau and the Indiana Department of Insurance within thirty (30) days of receipt of the Committee decision. Failure to timely file the notice of appeal shall

constitute a waiver of the right to appeal the Committee decision. A copy of the notice of appeal shall be served on the opposing party via regular mail. The notice of appeal shall include the following:

1. The date of the Committee decision being appealed;
2. The names of all parties;
3. A copy of the Committee decision; and
4. A written description of the basis for the appeal specifically detailing why the appellant contends the Committee's decision should be reversed.

C. Bureau's Responsibility Upon Receiving Notice of the Appeal – The Bureau shall take the following action upon receipt of a timely filed notice of appeal:

1. Notify all Committee members of the appeal; and
2. Promptly forward a copy of the notice of appeal to the Commissioner of the Indiana Department of Insurance.
3. Promptly assemble the appellate record and forward the same to the Commissioner. The appellate record shall consist of the following:
 - a. The written decision of the Committee;
 - b. A copy of all exhibits admitted at the hearing;
 - c. A copy of all papers filed by the parties with the Bureau;
 - d. To the extent available, a copy of the official transcript of the hearing; and
 - e. The notice of appeal.

D. Proceedings Before the Indiana Department of Insurance

1. Administrative Law Judge – The Commissioner shall appoint an individual to serve as administrative law judge (“ALJ”) for purpose of hearing the appeal.
2. Nature of Proceeding – The proceeding before the ALJ is not a trial de novo but rather shall be in the nature of an appeal. The parties

shall submit appellate briefs pursuant to a schedule ordered by the ALJ. The ALJ shall then set a hearing for the purpose of the parties providing oral argument. The ALJ will not consider new evidence or matters not included in the appellate record.

3. Role of Bureau – The Bureau shall be a party to the Appeal. The Bureau shall serve as an advocate for the decision of the Committee.
4. Standard of Review – The ALJ shall accept all factual findings made by the Committee. The ALJ shall not reweigh the evidence. The ALJ shall affirm the decision of the Committee if the ALJ concludes the decision is supported by the evidence and not contrary to Indiana law. Otherwise, the ALJ may reverse the decision of the Committee. The ALJ shall notify the Bureau and the parties in writing of its decision.
5. Further Appeal - The decision of the ALJ may be appealed to the Marion County, Indiana Superior Court pursuant to Ind. Code §27-7-2-27.