

Text of Rule

1 **SECTION 1.** HA 4 (title), 4.01, 4.02 and 4.03 are repealed.

2 **SECTION 2.** HA 4.04 (title), (1) and (2) are renumbered DWD 80.05 (title), (1) and (2) and
3 amended to read:

4 DWD 80.05 (title) **Procedure on claim.** (1) In cases of disputes in matters coming
5 under the jurisdiction of ch. 102, ~~Stats., or s.~~ ss. 40.65, 59.88 (3), 62.624 (2), 106.25, 303.07 (7),
6 or 303.21, Stats., and s. 66.191, 1981 Stats., any party to the dispute may apply to the department
7 for relief and the department shall make such order or award as shall be lawful and just under the
8 circumstances.

9 (2) In all such cases under sub. (1), the applicant shall file his or her application with the
10 department, along with sufficient copies of the application for service on the ~~respondents~~ adverse
11 parties. The department shall thereupon serve the ~~respondents~~ adverse parties with a copy of the
12 application and the ~~respondents~~ adverse parties shall file an answer to the application with the
13 ~~division~~ department within 20 days after the service and likewise serve a copy of the answer on
14 the applicant. If no answer is mailed by the respondent within 20 days of ~~service of the~~
15 ~~application~~ mailing by the department, the ~~division~~ department may issue an order by default,
16 without hearing, in accordance with the application, as provided by s. 102.18 (1) (a), Stats.

17 **SECTION 3.** HA 4.04 (2) (Note), (3), (4) and (5) are repealed.

18 **SECTION 4.** HA 4.05 is repealed.

19 **SECTION 5.** HA 4.06 is repealed.

20 **SECTION 6.** HA 4.07 is renumbered DWD 80.08 and amended to read:

21 DWD 80.08 **Amendments.** Amendment may be made to the application or answer by
22 letter mailed to the ~~division~~ department prior to the date the notice of hearing is mailed. Copies

1 of the letter shall be sent directly to the other parties. The letter shall state reasons for the
2 amendment.

3 **SECTION 7.** HA 4.08 is renumbered DWD 80.09 and DWD 80.09 (2), (3) and (4), as
4 renumbered, are amended to read:

5 DWD 80.09 **(2)** Requests for postponements ~~or~~ and continuances shall be considered by
6 the ~~division~~ department only if such requests are received within a reasonable time before the
7 date of the hearing.

8 **(3)** The ~~division~~ department shall grant postponements and continuances only because of
9 extraordinary circumstances. Neither the scheduling problems nor the convenience of the parties
10 shall be considered extraordinary circumstances.

11 **(4)** A postponement, continuance, or extension of time may not be granted upon the
12 mutual agreement of the parties without the consent of the ~~division~~ department.

13 **SECTION 8.** HA 4.09 is repealed.

14 **SECTION 9.** HA 4.10 is renumbered DWD 80.11.

15 **SECTION 10.** HA 4.11 is renumbered DWD 80.12 and DWD 80.12 (1) (a) and (c), (2) (intro.),
16 (a) and (b), as renumbered, are amended to read:

17 DWD 80.12 **(1)** (a) The rules of practice before the ~~division~~ department shall be such as
18 to secure the facts in as direct and simple a manner as possible.

19 (c) The administrative law judge may not allow into the record, either on direct or cross-
20 examination, redundant, irrelevant or repetitive testimony. Hearsay testimony ~~with probative~~
21 ~~value~~ may be admitted at the discretion of the administrative law judge provided such testimony
22 has probative value.

1 (2) (intro.) The ~~division~~ department may select places for a hearing after considering the
2 geographical location and volume of claims in an area. ~~A- The department will furnish a list of~~
3 sites ~~will be furnished~~ upon request to interested parties ~~by the division~~. From this list, a hearing
4 site shall be selected at the discretion of the ~~division~~ department. The ~~division~~ department, in
5 determining the site of the hearing, shall consider all of the following:

6 (a) The ~~applicant's~~ location choice of the applicant.

7 (b) The location of the office of the treating practitioner or practitioner appointed by the
8 department under the provisions of s. 102.13 (3) or s. 102.17, Stats.

9 **SECTION 11.** HA 4.12 is renumbered DWD 80.13.

10 **SECTION 12.** HA 4.13 is renumbered DWD 80.14 and DWD 80.14 (intro.), (1) and (3), as
11 renumbered, are amended to read:

12 DWD 80.14 **Transcripts.** (intro.) Transcripts of testimony taken or proceedings had
13 before the ~~division shall~~ department will be furnished to the ~~applicant or respondent parties~~ or
14 their attorneys in accordance with ~~all of~~ the following provisions:

15 (1) After the commencement of an action to review an order of the ~~labor and industry~~
16 ~~review~~ commission in circuit court, a copy of the hearing record will be furnished to the plaintiff
17 or other parties upon payment to the ~~division~~ department of the reporter's fees set forth in s.
18 757.57 (5), Stats., and not as set forth in s. 757.57 (2), Stats.

19 (3) Upon proper showing of financial inability to pay for copies of such testimony or
20 proceedings, the ~~division may~~ department in its discretion will furnish copies of the same on
21 such terms as may be agreed upon.

22 **SECTION 13.** HA 4.14 is repealed.

1 **SECTION 14.** HA 4.15 (title), (1) and (2) are renumbered DWD 80.22 (title), (1) and (2) and
2 amended to read:

3 DWD 80.22 (title) **Use of reports from practitioners and expert witnesses as**
4 **evidence.**

5 (1) In this section, “report” means a report by a practitioner or a report by an expert
6 witness on the issue of loss of earning capacity, ~~as described in s. HA 4.14.~~

7 (2) Matters stated in ~~a~~ such report ~~that~~ which would not be competent or material
8 evidence if given as oral testimony ~~are~~ shall not be competent or material as prima facie evidence
9 if objection is made, except as corroborated by competent and material oral testimony.

10 **SECTION 15.** HA 4.15 (2) (Note) is repealed.

11 **SECTION 16.** HA 4.15 (3) to (7) are renumbered DWD 80.22 (3) to (7) and amended to read:

12 DWD 80.22 (3) Use of reports shall be permitted in any case in which claim for
13 compensation is made, provided the reporting practitioner or other expert witness is available
14 for ~~cross-examination~~ cross-examination.

15 (4) ~~Reports shall be submitted to the division on a prescribed form prescribed by the~~
16 ~~department and shall be certified. An applicant~~ A party shall be informed of the provisions of s.
17 102.17 (1) (d), Stats., and ~~ss. DWD 80.21 and HA 4.14~~ the department's rules, and also that a
18 form for reporting will be supplied to the ~~applicant~~ party upon request.

19 (5) Reports shall be submitted to the department upon a form prescribed by the
20 department and shall be certified. The ~~division~~ department may require additional or
21 supplementary reports. Upon failure of the applicant to submit such reports within the time
22 specified prior to hearing, all reports previously filed may, in the discretion of the ~~division~~
23 department, be excluded as evidence.

1 (6) Reports shall be filed with the application for adjustment of claim or as soon
2 thereafter as possible. Reports not filed with the ~~division~~ department 15 days prior to the date of
3 hearing shall not be acceptable as evidence except upon good cause for failure so to file,
4 established to the satisfaction of the ~~division~~ department.

5 (7) Simultaneously with the filing of a report with the ~~division~~ department, a party shall
6 serve copies upon all other parties in interest. Service upon the designated representative of a
7 party shall be deemed service upon the party. Service upon the insurance carrier for an employer
8 shall be deemed service upon the employer. However, if a party does not have a representative,
9 the ~~division~~ department may elect to make service upon the other parties

10 **SECTION 17.** HA 4.16 is renumbered DWD 80.31 and amended to read:

11 DWD 80.31 **Procedure and claims under ~~ch. 40~~ s. 40.65, Stats.** The ~~division~~
12 department shall observe the same rules and procedures and may use the same forms in
13 processing and determining claims made under s. 40.65, Stats., as are used under ch. 102, Stats.

14 **SECTION 18.** HA 4.17 is renumbered DWD 80.44 and amended to read:

15 DWD 80.44 **Witness fees and travel reimbursement.** The fees and travel
16 reimbursement of witnesses and interpreters for attending a hearing before an administrative law
17 judge of the department shall be the statewide rate currently paid under s. 814.67 (1) (b), Stats.,
18 notwithstanding any local county variations

19 **SECTION 19.** HA 4.18 is repealed.

20 **SECTION 20.** DWD 80.02 (2) (g) 2. is amended to read:

21 DWD 80.02 (2) (g) 2. A decision to deny liability for payment of compensation for
22 reported claims after a concession of liability is made, giving the reason for the denial and

1 advising the employee of the right to a hearing before the ~~division of hearings and appeals~~
2 department.

3 **SECTION 21.** DWD 80.02 (2m) (a) 1. is amended to read:

4 DWD 80.02 (2m) (a) 1. A decision to deny liability for payment of compensation giving
5 the specific reason for the denial and advising the employee of the right to a hearing before the
6 ~~division of hearings and appeals~~ department.

7 **SECTION 22.** DWD 80.025 (6) is amended to read:

8 DWD 80.025 (6) The ~~division of hearings and appeals~~ department shall provide
9 transcripts of testimony taken or proceedings had before the ~~division~~ department only in
10 accordance with s. ~~HA 4.13~~ DWD 80.14.

11 **SECTION 23.** DWD 80.16 is created to read:

12 **DWD 80.16 Mediation. (1)** A party may request the department to schedule a
13 conference to discuss a mutually agreeable resolution of a disputed case without a formal
14 hearing.

15 **(2)** The department may schedule a conference for purposes of mediation after a party has
16 submitted a request, and the other party or parties have confirmed in writing agreement to the
17 conference.

18 **(3)** A party may request a specific administrative law judge to serve as a mediator at the
19 conference. The department shall assign an administrative law judge to conduct the conference
20 based on staff resources and operational requirements.

21 **(4)** All written and oral communications or statements associated with a conference for
22 mediation are confidential and not subject to disclosure, except for the following:

23 (a) Hearing applications.

- 1 (b) Answers to applications.
- 2 (c) Reports by practitioners and expert witnesses.
- 3 (d) Payments for compensation and medical expense made by employers and worker's
- 4 compensation insurance carriers.
- 5 (e) Form WKC-3 and unpaid medical bills resulting from the injury.
- 6 (f) Reimbursement claims by health insurance.
- 7 (g) Claims for family support and medical assistance under s. 102.27 (2), Stats.
- 8 **(5)** A party may request a conference for mediation on a form prescribed by the
- 9 department.

10 **SECTION 24.** DWD 80.20 is created to read:

11 DWD 80.20 **License to appear. (1)** This section shall govern the issuance, suspension,

12 or revocation of licenses to appear before the department in compensation matters under the

13 provisions of s. 102.17 (1) (c), Stats.

14 **(2)** Permission to appear at a single hearing may be issued by the department through any

15 administrative law judge upon application evidencing qualifications provided by statute and the

16 department's rules. Such permission may be given to appear in 3 cases before the issuing of

17 license. When appearance has been made in 3 cases, license shall be required, which shall be

18 issued only upon execution and filing with the department of an application upon a form

19 prescribed by the department.

20 **(3)** A license may not be issued unless the applicant has appeared in representation of a

21 party before the department on at least 3 formal hearings.

22 **(4)** The following conditions shall operate as grounds for refusal, suspension, or

23 revocation of license:

1 (a) Charging of excessive or unconscionable fees, misrepresentation of clients,
2 dishonesty, fraud, sharp practice, neglect of duty, or other improper conduct in the representation
3 of a party before the department, unless satisfactorily explained or excused by the department on
4 the grounds of subsequent good conduct.

5 (b) Disbarment from the practice of law, or resignation by request of properly constituted
6 authorities, unless there has been subsequent reinstatement and continuance in good standing.

7 (c) Contumacious conduct in hearing, gross discourtesy toward department
8 representatives, or failure to conform to rulings or instructions of the department or its
9 representatives.

10 (d) Intentional or repeated failure to observe provisions of the compensation act or rules
11 of procedure adopted by the department.

12 (e) Any other gross evidence of lack of good moral character, fitness or act of fraud, or
13 serious misconduct.

14 **SECTION 25.** DWD 80.49 (8) (c) is amended to read:

15 DWD 80.49 (8) (c) A medical report from a physician, podiatrist, psychologist or
16 chiropractor showing that the permanent work restrictions provided by the employee's
17 practitioner are in dispute, and medical or vocational documentation that the difference in work
18 restrictions would materially affect either the employer's ability to provide suitable employment
19 or a specialist's ability to recommend a retraining program. If after 30 days the employee and
20 employer cannot resolve the dispute, either party may request a hearing before the ~~division of~~
21 ~~hearings and appeals~~ department to determine the employee's work restrictions. Within 30 days
22 after the ~~division of hearings and appeals~~ department determines the restrictions, the employer
23 shall provide the written notice required in par. (a) or (b).

1 **SECTION 26. EFFECTIVE DATE.** This rule takes effect on the first day of the month
2 following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2)
3 (intro.), Stats.

Signed this ____ day of _____, 2026.

Amy Pechacek, Secretary-designee

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