**90-351 WORKERS' COMPENSATION BOARD**

**Chapter 14: REVIEW BY FULL BOARD**

**SUMMARY**: The rules of this chapter shall govern the procedures for obtaining a review of an Administrative Law Judge’s decision by the Board pursuant to 39-A M.R.S.A. §320.

**§ 1. Request for Board Review**

1. An Administrative Law Judge may request the Board to review a decision of that Administrative Law Judge pursuant to 39-A M.R.S.A. §320 by filing with the Board form WCB-300 and a copy of the decision for which review is sought. Except when a motion is filed to find the facts specially and state separately the conclusions of law, the request must be made within 25 days of the issuance of a decision. If a motion is filed to find the facts specially and state separately the conclusions of law, the request must be made within 5 days of the issuance of a decision on the motion. The Board will distribute copies of the decision attached to form WCB-300 to all Board members within 5 working days of receipt of form WCB-300. The Board shall also distribute notice of the request for review to the Law Court.
2. If a request for review is filed prior to a timely motion to find the facts specially and state separately the conclusions of law, the Administrative Law Judge shall, within 5 days of the issuance of a decision on the motion, notify the Board whether or not the request for review is valid or should be withdrawn.

**§ 2. Board Action**

 1. Except as provided in paragraph 2 of this section, the Board shall vote to grant or deny a Request for Review Pursuant to 39-A M.R.S.A. §320 within 60 days after receipt of form WCB-300.

 2. If a Motion for Findings of Fact and Conclusions of Law is filed after an Administrative Law Judge has requested review pursuant to 39-A M.R.S.A. §320, the Board shall vote to grant or deny a request for review pursuant to 39-A M.R.S.A. §320 within 60 days after receipt of the Administrative Law Judge’s decision on the Motion for Findings of Fact and Conclusions of Law.

 3. The vote shall be conducted during a public meeting of the Board. In voting to grant or deny a Request for Review pursuant to 39-A M.R.S.A. §320, the Board shall consider only the decision from which review is sought, including a decision on a Motion for Findings of Fact, form WCB-300, and, if requested by the Board, a summary provided by the Legal Division.

 4. Notice that the Board will vote on a request for review pursuant to §320 shall be accomplished as follows: The name of the case, along with an indication that the case is being reviewed pursuant to §320, shall be placed on the Board’s agenda under the heading “General Counsel’s report.”

 5. The Board shall notify the Administrative Law Judge, parties, and the Law Court of the outcome of the vote of the Board.

 6. If a majority of the members of the Board vote to grant the review of the decision, the Chair of the Board shall order the preparation of the record.

**§ 3.** **Record**

 Responsibility for preparing the record shall be with the Board. The record shall consist of all evidence considered by the Administrative Law Judge in making the decision which is being reviewed by the Board. The record shall be prepared within 60 days of notice of the vote of the Board granting review of the decision. Copies of the record shall be distributed to the parties and to the panel members assigned by the Chair to review the decision. Upon completion of the record the Board shall issue a briefing schedule to the parties.

**§ 4. Briefs**

 1. **Time for Filing Briefs**

 The party or parties who received an unfavorable decision from the Administrative Law Judge shall be treated as the appellants. The other party or parties shall be treated as appellee(s). The appellant shall be given 30 days to file a brief. The appellee shall be given 20 days from receipt of the appellant’s brief in which to file its brief. The appellant may file a reply brief within 15 days from receipt of the appellee’s brief.

 2. **Additional Time to File Briefs**

 Motions for extensions of time in which to file a brief shall be made in writing and filed with the Board. The motion shall be directed to the panel assigned to review the decision. Extensions for filing briefs shall only be granted in extraordinary circumstances.

 3. **Number of Copies to be Filed and Served**

 Ten copies of each brief shall be filed with the Board and one copy of each brief shall be served on counsel for each of the other parties separately represented. The Board will not accept a brief for filing unless it is accompanied by acknowledgment or certificate of service upon counsel for the other parties.

 4. **Form of Briefs**

 A. **Brief of Appellant**

 The brief of the appellant shall contain under appropriate headings and in the order here indicated:

 (1) A table of contents, with page references, and a table of cases, statutes and other authorities cited.

 (2) A statement of the facts of the case.

 (3) A statement of the issues presented for review.

 (4) An argument. The argument may be preceded by a summary. The argument shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefore, with citations to the authorities and particular pages of the record relied on.

 B. **Brief of the Appellee**

 The brief of the appellee shall conform to the requirements of paragraph (A), except that a statement of the issues, or of the facts of the case, need not be made unless the appellee is dissatisfied with the statement of the appellant.

 C. **Reply Brief**

 Any reply brief filed by the appellant must be strictly confined to replying to new matter raised in the brief of the appellee. No further briefs may be filed except by leave of the Board.

 D. **Format of Briefs**

 Briefs may be reproduced by standard printing or by any duplicating or copying process capable of producing a clear black image on white paper. All printed matter must appear in at least 11 point type on opaque, unglazed paper. Briefs shall be bound in volumes having pages 8 1/2 X 11 inches and type matter not exceeding 6 1/6 X 9 1/2 inches, with double spacing between each line of text except for quotations. The front cover of the brief shall contain: (1) the docket number of the case as assigned by the Board; (2) the title of the case; (3) the title of the document (e.g., brief of appellant); and (4) the names and addresses of counsel representing the party on whose behalf the document is filed. The covers of the brief of the appellant shall be blue; that of the appellee, red; and that of any reply brief, gray.

STATUTORY AUTHORITY: 39-A M.R.S. §§ 101 *et seq.*

EFFECTIVE DATE:

 January 15, 1993

EFFECTIVE DATE OF PERMANENT RULE:

 April 2, 1993

EFFECTIVE DATE (ELECTRONIC CONVERSION):

 April 28, 1996

NON-SUBSTANTIVE CORRECTIONS:

 September 12, 1996 - header added, “Sec.” changed to §, minor formatting.

AMENDED:

 August 22, 1998

NON-SUBSTANTIVE CORRECTIONS:

 November 23, 1998 - “39A” changed to “39-A”; minor spelling and formatting.

AMENDED:

 July 24, 2000 - Section 2 Amendments

NON-SUBSTANTIVE CORRECTIONS:

 January 9, 2003 - character spacing only

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 August 18, 2014 – filing 2014-180

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