

2014

How to File a Workers' Compensation Appeal without an Attorney. 2014

Maine Workers' Compensation Board

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How to file a Workers' Compensation appeal without an attorney

Appeal to the Appellate Division. As of August 30, 2012, if you wish to appeal a decision of a Workers' Compensation Board Hearing Officer, you must do so with the Appellate Division of the Workers' Compensation Board.

To file your appeal, you need to file the following documents with the Appellate Division within 20 days of when you receive the hearing officer's decision: (1) a Notice of Intent to Appeal, form WCB-240, <http://www.maine.gov/wcb/Forms/WCB-240.pdf> and (2) a copy of the decision you are appealing from. These documents must be received at the following address by the 20th day.

**Appellate Division
Workers' Compensation Board
62 Elm Street
Portland, ME 04101**

In addition, YOU MUST SEND a copy of the Notice of Intent to Appeal to all other parties in the case. Keep a copy of the Hearing Officer's decision and the Notice of Intent to Appeal for your records. Do not send anything to your local District or Superior Court because those courts do not handle Workers' Compensation cases.

Next, the Appellate Division will send you a scheduling order telling you whether a transcript of your hearing has been ordered, when the record on appeal must be filed, and what the record should contain. As the appellant, you will be responsible to pay for the preparation of the hearing transcript. The scheduling order will contain a docket number; be sure to put the docket number on any papers you file with the Appellate Division.

The record, containing the transcript and other relevant documents, must be filed within forty-five days after the Notice of Intent to Appeal was filed or the receipt of the transcript, whichever is later. You must file a copy of the record with the Appellate Division and send one copy to each party involved in the appeal.

After the record is filed, the Appellate Division will send you a briefing schedule. The briefing schedule will tell you when your brief is due. In addition, it will set forth the dates the appellee's brief, the appendix, and any reply brief must be filed, and how many copies of each document are required. The appellee will send you copies of any documents that it files in the case.

When the briefing schedule is complete, your case will be placed in order for decision by a panel of at least 3 Appellate Division Hearing Officers. If you wish to present oral argument to the panel, you must make a request in writing on or before the date the appellee's brief is due. Otherwise, your case will be decided on the briefs and the record. The panel of Appellate Division hearing officers will issue a written decision in your case.

Sally Enoch, Clerk/Staff Attorney
(207) 822-0820

Appeal to the Law Court. If you are not satisfied with the Appellate Division's decision in your case, you can ask for an appeal of that decision to the Maine Supreme Court. The Supreme Court has discretion to accept or deny your appeal. To file your request for an appeal, you must do the following things within 20 calendar days from the date on which you (or your representative) received the Appellate Division's decision:

Send a copy of the Appellate Division's decision and a check or money order for the \$120.00 filing fee to the:

Clerk of the Law Court
PO Box 368
Portland, ME 04112-0368

These must be received in the clerk's office by 4:00 p.m. on the 20th day. This time period cannot be extended. Be sure to include a letter with your current mailing address on it, and YOU MUST SEND a copy of that letter to the attorney for the employer AND the General Counsel of the Workers' Compensation Board. Keep a copy of the decision and your letter to the court for your records. Again, do not send anything to your local District or Superior Court because those courts do not handle Workers' Compensation cases.

Next the clerk's office will send you a letter telling you that the case is now in the Supreme Court and telling you that a docket number has been given to your case. Be sure to put this docket number on any papers you file with the court. The letter will tell you the date on which your Petition for Appellate Review is due. The Petition for Appellate Review is your written statement of the errors you feel were made by the Hearing Officer. The time period for the filing of the petition can be extended for a reasonable period of time if you file a written request for an extension of time. YOU MUST SEND a copy of your request to the attorney for the employer AND the General Counsel of the Workers' Compensation Board.

When you have finished writing your Petition, attach a copy of the Appellate Division's decision to it. Make 12 copies of the Petition and Decision. Send 10 copies to the Clerk of the Law Court. YOU MUST SEND one copy each to the attorney for the employer AND the General Counsel of the Workers' Compensation Board. Keep a copy for your records.

The attorney for the employer has 14 days in which to file a response to your petition. This time period can be extended. The response is optional, so sometimes they don't file one. The attorney for the employer will send you a copy of any papers he or she files with the court.

It may take as long as several months to get a decision from the court on your petition for appellate review. If the petition is denied that is the end of the case. Many Workers' Compensation appeals end at this point in the process. If the petition is granted, both sides will have to file briefs (a longer and more detailed written statement) and may have to come to Portland for a hearing before the Supreme Court.

Matthew Pollack, Clerk of the Law Court
207-822-4146 or -4270

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