

WORKERS' COMPENSATION DIVISION[876]

Adopted and Filed Emergency

Rulemaking related to modifications of the Uniform Rules on Agency Procedure

The Workers' Compensation Division hereby rescinds Chapter 9 and adopts new Chapter 2506, "Contested Cases," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 10A.310(1)(a) and Iowa Code chapter 17A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 10A, 17A, 85, 85A, 85B, and 87.

Purpose and Summary

The Division rescinds Chapter 9. Pursuant to recently enacted SF 2463, the Division adopts the Uniform Rules on Agency Procedure but specifically does not adopt certain specifically identified Uniform Rules on Agency Procedure related to contested cases (7—Chapter 2506). The Division adopts emergency rules pertaining to contested cases to maintain procedural rights and guarantees within the Iowa workers' compensation system that have developed over more than a century and offer greater protections than those outlined in the Uniform Rules on Agency Procedure.

With respect to the Division's rejection of certain Uniform Rules of Agency Procedure and the adoption of new Chapter 2506, related to contested case hearings, the purpose is to ensure greater procedural protections for parties than are afforded in the Uniform Rules of Agency Procedure. The Division further intends for the rules adopted in Chapter 2506 to provide clear deadlines for the administration of contested cases before the agency, comply with statutory deadlines for alternate medical care hearings, and reduce confusion for litigants with significant changes in deadlines and procedures in contested cases before the Division.

The Division's current structure and procedures operate more like district court proceedings than typical agency contested case proceedings. The vast majority of litigants appearing before the Division are represented by counsel. Counsel appearing before the Division are highly specialized and knowledgeable about the procedures involved in the workers' compensation process. Significant changes to the Division's contested case procedures will have significant impact upon those practitioners, injured workers, businesses, insurers, and the Second Injury Fund appearing before the Division. For litigants that elect to proceed pro se before the Division, the contested case rules adopted provide minimum procedural rights to ensure production and exchange of information prior to a formal hearing before the agency.

Contested cases coming before the Division vary in significant ways from contested cases before other state agencies. First, most of the Division's contested cases are brought by private citizens against their employer and/or its insurance carrier. Contested cases before the Division do not begin with governmental action. Instead, cases are initiated pursuant to Iowa Code section 85.26(3) by the filing of an original notice and petition. The Division's arbitration cases and review-reopening cases involve significant discovery and typically take approximately one year from the original notice and petition until a contested case hearing occurs.

Practical rules have been enacted over the decades to make the workers' compensation contested case process as efficient as possible. The Division seeks to re-enact many of those rules for efficiency,

which are not contained in the Uniform Rules of Agency Procedure. For instance, the Division enacts emergency rules that mandate automatic service of medical records between parties. The emergency rules ensure admissibility of medical records and reports without laying foundation for such evidence or requiring depositions of treating medical providers to admit their opinions. These rules serve as efficiencies within our system and significantly reduce time and cost for the parties. Failure to enact these rules on an emergency basis would have a detrimental impact on the efficiency of the workers' compensation system and on the ultimate expense to the litigants appearing before the Division.

The Division also handles different types of contested cases that do not easily fit within the uniform rules of agency procedure. Alternate medical care hearings are governed by a statutory deadline. See Iowa Code section 85.27. The Uniform Rules of Agency Procedure would not permit the Division to comply with the statutory deadline. Similarly, the Division is tasked with hearing health service (medical fee) disputes as well as applications for vocational training pursuant to Iowa Code section 85.70(2). Neither fits easily within the uniform rules and specialized rules are necessary.

The Division has modernized and implemented an electronic filing system. The Division opts out of some of the uniform rules because they are not consistent with the operational abilities of the Division's current electronic filing system. Failure to implement emergency rules would require significant upgrade to, or modification of, our computer filing system. Use of the Uniform Rules of Agency Procedure would require unnecessary duplication of efforts for service of documents that are automatically served on all parties when electronically filed.

For instance, the provisions of Uniform Rule 2506.12(5) would require all documents exchanged by the parties to be filed with the Division. The Division's server literally could not host the hundreds of thousands of medical records, tax returns, personnel files, and discovery responses exchanged by parties every year and would require a significant upgrade with a significant fiscal impact to the Division not contemplated within its budgetary constraints. Maintaining a vast quantity of unnecessary medical records, tax records, and personnel files would also pose an unnecessary risk of disclosure of personally identifiable information of users of the Iowa workers' compensation system.

The Division has determined that there is a need for continuity in the handling of its cases, including deadlines, procedures, and discovery rights. The Division has determined that the need to avoid a significant fiscal impact requires enacting emergency rules. The Division has determined that compliance with statutory deadlines also requires the enactment of emergency rules. Therefore, the Division opts out of certain Uniform Rules of Agency Procedure and enacts other rules on an emergency basis.

*Reason for Adoption of Rulemaking Without
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the Workers' Compensation Division finds that notice and public participation are unnecessary or impractical because the statute so provides. 2026 Iowa Acts, Senate File 2463, section 5, authorizes emergency rulemaking to provide for additions, exceptions, or amendments to the Uniform Rules On Agency Procedure.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(a), the Division also finds that the normal effective date of this rulemaking, 35 days after publication, should be waived and the rulemaking made effective June 30, 2026, because 2026 Iowa Acts, Senate File 2463, section 5, authorizes emergency rulemaking for the purpose stated above.

The new Uniform Rules on Agency Procedure are effective as of January 13, 2026. Many of the uniform rules contradict long-established practice before the Iowa Workers' Compensation Commission. Contested cases before the Iowa Workers' Compensation Commission include full discovery rights and procedures, which in many respects resemble litigation before the Iowa District Court. Some of the

Uniform Rules on Agency Procedure are inconsistent with current efficiencies, the current electronic filing system at use by the Division, and certain requirements established by statute. Implementing the emergency rules ensures seamless transition to the Uniform Rules of Agency Procedure in cases currently pending before the Division, retention of efficiencies developed over decades, and reduction in time and expense for both private parties appearing before the Division and for the Division.

Adoption of Rulemaking

This rulemaking was adopted by the Division on June 11, 2026.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rulemaking has been initiated through the normal rulemaking process and is published herein under Notice of Intended Action as ARC xxxxxxx to allow for public comment.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 7—2504.

Review by Administrative Rules Review Committee

The ARRC, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The ARRC's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking became effective on June 30, 2026.

The following rulemaking action is adopted:

Item 1. Rescind 876—Chapter 9

Item 2. Adopt the following **new** 876—Chapter 2506:

CHAPTER 2506

CONTESTED CASES

The Uniform Rules on Agency Procedure, 7—Chapters 2500 through 2506, are rules generally applicable to agencies pursuant to Iowa Code section 17A.24. Additions, exceptions, or amendments to the corresponding chapter are below.

7--2506.4(17A) Electronic requests for contested case proceeding.

This rule is not adopted.

7--2506.5(17A) Notice of hearing.

This rule is not adopted.

7--2506.6(17A) Presiding officer.

Subrules 2506.6(1) through 2506.6(3) are not adopted.

7--2506.8(17A) Telephone proceeding.

This rule is not adopted.

7--2506.11(17A) Pleadings.

This rule is not adopted.

7--2506.12(17A) Electronic service and filing of pleadings and other papers.

Subrules 2506.12(1) through 2506.12(4) and 2506.12(6) are not adopted.

7--2506.13(17A) Discovery.

This rule is not adopted.

7--2506.15(17A) Motions.

This rule is not adopted.

7--2506.16(17A) Prehearing conference.

This rule is not adopted.

7--2506.17(17A) Continuances.

This rule is not adopted.

7--2506.22(17A) Default.

This rule is not adopted.

7--2506.23(17A) Ex parte communication.

Subrule 2506.23(3) is not adopted.

7--2506.24(17A) Recording costs.

This rule is not adopted.

7--2506.25(17A) Interlocutory appeals.

This rule is not adopted.

7--2506.27(17A) Appeals and review.

This rule is not adopted.

7--2506.28(17A) Applications for rehearing.

This rule is not adopted.

876—2506.32(10A, 17A, 85) Contested cases.

Contested case proceedings before the workers' compensation commissioner are:

- 2506.32(1) Arbitration (Iowa Code section 10A.317).
- 2506.32(2) Review of award or settlement (review-reopening, Iowa Code section 10A.317).
- 2506.32(3) Benefits under Iowa Code section 85.27.
- 2506.32(4) Death and burial benefits (Iowa Code sections 85.28, 85.29, 85.31).
- 2506.32(5) Determination of dependency (Iowa Code sections 85.42, 85.43, 85.44).
- 2506.32(6) Equitable apportionment (Iowa Code section 85.43).
- 2506.32(7) Second injury fund (Iowa Code section 85.63 et seq.).
- 2506.32(8) Vocational rehabilitation benefits (Iowa Code section 85.70(1)).
- 2506.32(9) Vocational training and education (Iowa Code section 85.70(2)).
- 2506.32(10) Approval of fees under Iowa Code section 10A.327.
- 2506.32(11) Commutation (Iowa Code section 85.45 et seq.).
- 2506.32(12) Employee's examination (Iowa Code section 85.39).
- 2506.32(13) Determination of compliance with Iowa Code chapters 10A, 85, 85A, 85B, and 87.
- 2506.32(14) Applications for alternate medical care (Iowa Code section 85.27).
- 2506.32(15) Determination of liability, reimbursement for benefits paid and recovery of interest (Iowa Code section 85.21).
- 2506.32(16) Interest (Iowa Code section 85.30).
- 2506.32(17) Penalty (Iowa Code section 10A.315).
- 2506.32(18) Application for approval of third-party settlement (Iowa Code section 85.22).
- 2506.32(19) Matters that would be a contested case if there were a dispute over the existence of material facts.
- 2506.32(20) Any other issue determinable upon evidential hearing which is under the jurisdiction of

the workers' compensation commissioner.

2506.32(21) There shall be no hearing in contested cases pursuant to subrules 2506.32(8) to 2506.32(12) unless otherwise ordered or requested in writing by the petitioner in the original notice or petition or by the respondent within ten days following the time allowed by these rules for appearance.

This rule is intended to implement Iowa Code sections 10A.310 and 17A.2(2) and the statutory sections noted in each category of the rule.

876--2506.33(10A) – Separate Evidentiary Hearing – Denial or Delay Benefits.

Entitlement to penalty benefits for unreasonable delay, denial, or termination of benefits, as provided in Iowa Code section 10A.315 shall be pled. If pled, discovery shall be limited to matters discoverable in the absence of such pleading unless it is bifurcated. The claimant may bifurcate the denial or delay issue by filing and serving a notice of bifurcation at any time before a case is assigned for hearing, in which case discovery on that issue may proceed only after the final decision of the agency on all other issues.

This rule is intended to implement Iowa Code sections 10A.315, 10A.319, and 10A.321

876–2506.34(10A,85, 85A, 85B, 87) – Compliance proceedings.

If the workers' compensation commissioner shall have reason to believe that there has not been compliance with the workers' compensation law by any person or entity, the workers' compensation commissioner may on the workers' compensation commissioner's own motion give notice to the person or entity and schedule a hearing for the purpose of determining whether or not there has been compliance by the person or entity. The notice shall state the time and place of the hearing and a brief statement of the matters to be considered. The notice of hearing may be given by ordinary mail or by WCES if the alleged noncompliant person or entity is registered in WCES and is currently participating in a contested case using WCES and may be given to the insurer for the employer in lieu of the employer as permitted by Iowa Code section 87.10 if the insurer has filed a report, pleading or motion that acknowledges that it is the insurer for the claim at issue. Following the hearing, the workers' compensation commissioner or a deputy workers' compensation commissioner may issue a finding regarding compliance. In the event a failure to comply is found, the workers' compensation commissioner may impose sanctions in accordance with Iowa Code section 10A.314, 10A.315 or 10A.316 or order compliance within a specified time and under specified circumstances. The workers' compensation commissioner may file a certified copy of the order in an appropriate district court and may file a certified copy of the order with the Iowa insurance division of the department of commerce with a request for action by the insurance division upon failure to comply with the order. Nothing in this rule shall prevent the workers' compensation commissioner from conducting an informal conference with any person or entity concerning problems of compliance prior to the initiation of a compliance proceeding.

This rule is intended to implement Iowa Code chapters 10A, 85 ,85A, 85B, and 87.

876—2506.35(10A, 85, 85A, 85B, 87) Commencement by the workers' compensation commissioner.

In addition to an aggrieved party, the workers' compensation commissioner may initiate proceedings under subrule 2506.32(10). The proceeding may be held before a deputy workers' compensation commissioner or the workers' compensation commissioner. The workers' compensation commissioner shall be the only person to commence a proceeding under subrule 2506.32(14), unless such authority is specifically delegated by the workers' compensation commissioner to a deputy workers' compensation commissioner concerning a specific matter.

This rule is intended to implement Iowa Code chapters 10A, 85, 85A, 85B, and 87.

876—2506.36(10A, 85,17A) Original notice and petition.

A petition or application must be delivered or filed with the original notice unless original notice Form 100, Form 100A, Form 100B, or Form 100D of the workers' compensation division is used.

The original notice Form 100, Form 100A, Form 100B, Form 100C, Form 100D, or a determination of liability reimbursement for benefits paid and recovery of interest form shall provide for the data required in Iowa Code section 17A.12(2) and shall contain factors relevant to the contested case proceedings listed in rule 32(10A, 85,85A,85B, ,87,17A). Form 100 is to be used for all contested case proceedings except as indicated in this rule. Form 100A is to be used for the contested case proceedings provided for in subrule 2506.32(12). Form 100B is to be used for the contested case proceeding provided for in subrule 2506.32(8). Form 100C is to be used for the contested case proceeding provided for in subrule 2506.62(15) and rule 876—2506.65(10A, 17A,85,). Form 100D is to be used for the contested case proceeding provided for in rule 876—2506.67(85). The application and consent order for payment of benefits under Iowa Code section 85.21 is to be used for contested case proceedings brought under Iowa Code section 85.21. When a commutation is sought, Form No. 14-0013 or Form No. 14-0017 must be filed in addition to any other document. The petition for declaratory order, approval of attorney fees, determination of compliance and other proceedings not covered in the original notice forms must accompany the original notice.

At the same time and in the same manner as service of the original notice and petition, the claimant shall serve a patient's waiver using Form 14-0043 (authorization for release of information regarding claimants seeking workers' compensation benefits), or a substantially equivalent form, which shall not be revoked until conclusion of the contested case. The claimant shall provide the patient's waivers in other forms and update the patient's waivers as necessary to permit full disclosure of discoverable information whenever requested by a medical practitioner or institution.

A separate original notice and petition shall be filed for each claim that seeks benefits due to the occurrence of an injury, occupational disease or occupational hearing loss. The original notice and petition shall allege a specific date of occurrence consisting of a day, month and year. Alternate or multiple dates of occurrence may be alleged in the same original notice and petition if the claim or claims arose from the same occurrence or series of occurrences and uncertainty exists concerning the correct date of occurrence or the number of occurrences. An employee may join any number of employers or insurance carriers in the same original notice and petition if the claim is made against them jointly, severally or in the alternative. The remedy for misjoinder must be requested by motion within a reasonable time after the grounds become known, but in no event later than the claimant's case preparation completion date. All remedies will be applied without prejudice to any claim or defense. In addition to the remedies contained in Iowa Rule of Civil Procedure 1.236, the workers' compensation commissioner may order that parts of a claim be severed and proceeded with separately or that separate related claims be joined or consolidated for administrative convenience or for any good cause. If a correction is ordered but not made by a date specified in the order, the original notice and petition may be dismissed without further notice. If the correction is made within the specified time, the correction relates back to the date of the initial filing for purposes of the statute of limitations.

This rule is intended to implement Iowa Code sections 17A.12, 85.27, 85.45, and 85.48.

876-2506.37 Delivery of notice, orders, rulings and decisions.

Delivery of the original notice shall be made by the petitioning party as provided in Iowa Code section 17A.12(1) except that a party may deliver the original notice on a nonresident employer as provided in Iowa Code section 85.3. A proposed or final decision, order or ruling may be delivered by the workers' compensation division to any party by regular mail, by email or by WCES. Filing of a

notice, ruling and decision in WCES is the official filing and start of any appeal or motion deadline.

This rule is intended to implement Iowa Code sections 85.3 and 17A.12.

876—2506.38 Filing of notice.

(1) A contested case is commenced by filing the original notice and petition with the workers' compensation commissioner. No action shall be taken by the workers' compensation commissioner on any contested case against an adverse party unless the adverse party has answered or unless it can be shown by proper proof that the adverse party has been properly served. The original notice and petition if required by 876—2506.36(10A,17A, and 85) shall be accompanied by proof that the petitioner has deposited copies of such documents with the U.S. post office for delivery by certified mail, return receipt requested, upon the respondent or has submitted such copies to a proper person for delivery of personal service as in civil actions.

(2) Filing fee.

a. For all original notices and petitions for arbitration or review-reopening relating to weekly benefits filed on account of each injury, occupational disease or occupational hearing loss alleged, a filing fee shall be paid at the time of filing. The filing fee for petitions is \$125. No filing fee is due for the filing of other actions where the sole relief sought is one of the following or a combination of any of them: medical and other benefits under Iowa Code section 85.27; burial benefits under Iowa Code section 85.28; determination of dependency under Iowa Code sections 85.42, 85.43, and 85.44; equitable apportionment under Iowa Code section 85.43; second injury fund under Iowa Code sections 85.63 to 85.69; vocational rehabilitation benefits under Iowa Code section 85.70(1); vocational training and education benefits under Iowa Code section 85.70(2); approval of legal, medical and other fees under Iowa Code section 10A.327; commutation under Iowa Code sections 85.45 to 85.48; employee's examination under Iowa Code section 85.39; employee's examination or sanctions under Iowa Code section 85.39; application for alternate care under Iowa Code section 85.27; determination of liability, reimbursement for benefits paid and recovery of interest under Iowa Code section 85.21; interest under Iowa Code section 85.30; penalty under Iowa Code section 10A.315(4); application for approval of third-party settlement under Iowa Code section 85.22; and petitions for declaratory orders or petitions for interventions. An amendment to a petition that alleges an additional or alternate date of occurrence does not require payment of an additional filing fee if a filing fee was paid when the petition was filed.

b. A filing fee shall be required for each original notice and petition filed, as required in paragraph 2506.38(2) "a." If a party overpays a filing fee, the party may receive a refund. The party who made the overpayment must request a refund before June 1 of the fiscal year in which the overpayment occurred.

c. If no filing fee is paid at the time of filing of the original notice and petition, the workers' compensation commissioner shall return the original notice and petition to the party filing it. Filing an original notice and petition without paying the fee shall not toll the statute of limitations. Tendering an amount less than required will be considered failure to pay a filing fee.

d. The filing fee may be taxed as a cost to the losing party in the case. If the filing fee would impose an undue hardship or be unjust in the circumstances for the losing party, the filing fee may be taxed as costs to the winning party in the case. See rule 876—2506.59(10A).

e. The filing fee shall be paid at the same time the petition is filed. The filing fee shall be paid electronically with a credit card, via automated clearing house (ACH), or by other electronic means as allowed by WCES, unless an order granting permission for nonelectronic payment has been issued. If an order granting permission for nonelectronic payment has been issued, the party filing the petition shall issue a check payable to the "Iowa Workers' Compensation Division." If the payment of the filing fee is made by an account with insufficient funds or the payment is stopped, or the payment is otherwise not honored, it will be treated as a failure to pay the correct filing fee. See paragraph

2506.38(2)“c.” Nonelectronic payment will not be accepted without an order granting permission for nonelectronic payment. The statute of limitations is not tolled if a party has requested nonelectronic payment and is awaiting an order.

f. The workers’ compensation commissioner may accept for filing an original notice and petition without prepayment of the filing fee if in the discretion of the workers’ compensation commissioner the petitioner is unable to pay the fee at the time of filing. A deferral of payment of the filing fee shall only be granted upon written application by the petitioner. The application shall be filed at the same time the original notice and petition is filed. The application shall be in the form required by the workers’ compensation commissioner and shall include an affidavit signed by the petitioner. When payment of the filing fee is deferred, provisions for payment of the filing fee must be included in any settlement submitted to the workers’ compensation commissioner for approval or taxed as costs. When the application for deferral of payment of the filing fee is denied, the filing fee shall be paid as ordered. See paragraph 2506.38(2)“c.” The form for the application deferral of prepayment of fees (Form No. 14-0075) shall not be filed using WCES. The document shall be filed in paper form. If the request for deferral of fees is granted, a claim will be established in WCES. Parties to the claim shall use WCES for future filings, unless a party has been granted a waiver of the mandatory use of WCES.

g. Parties shall use the payment gateway in WCES to pay filing fees, unless an order has been issued allowing deferral of the payment of the filing fee or payment outside of WCES. In addition to the filing fee, the parties shall pay the convenience fee charged by the financial institution that is processing payment for WCES. This cost may be recoverable under rule 876—2506.59(10A).

This rule is intended to implement Iowa Code section 17A.12.

876-2506.39(17A) Appearance and responses, pleadings, motions and settlements.

Appearances and responses to pleadings and motions shall be made in WCES. Registration with the division of workers’ compensation’s WCES is required. Registration is accepted at <https://efile.iowaworkcomp.gov>. After a matter has been commenced and the respondent has been served with an original notice and filed an answer or appearance, subsequent filings or submissions in WCES do not require proof of service to parties of record who are registered with WCES. If a party has been granted a waiver of the mandatory use of WCES, the party shall include a proof of service for all parties of record. Attorneys will need to use the AT pin or pro hac vice pin assigned by the Iowa Supreme Court to be associated with a case in WCES. When an attorney is not representing a party, the employer or insurance carrier or the employer’s or insurance carrier’s agent or claimant shall register in WCES to file the settlement or medical data pursuant to 876—subrule 3.1(2). The filer will receive a status update for the information the filer submits based upon the status the filer selects when registering in WCES.

(1) *Motions.* Motions attacking a pleading must be served before responding to a pleading or, if no responsive pleading is required, upon motion made by a party within 20 days after the service of the pleading on such party.

(2) *Time after motions attacking pleadings and special appearances.* If a motion attacking a pleading is so disposed of as to require further pleading, such further pleading shall be served within ten days after notice of the action of the workers’ compensation commissioner or deputy workers’ compensation commissioner. If the further pleading requires a response, the response shall be filed within ten days after service of the further pleading.

(3) *Form, submission and ruling on motions.* All motions, including pre-answer motions and motions for summary judgment, shall have appended to them a concise memorandum brief and argument. All motions except motions for summary judgment shall be deemed submitted without hearing on the record presented on the tenth day following filing. Motions for summary judgment shall be deemed submitted as provided in Iowa Rule of Civil Procedure 1.981. Resistances to motions shall

have appended to them a concise memorandum brief and argument and shall be filed on or before the date of submission. Briefs and arguments are waived unless appended to the motion or resistance.

An order may be entered consolidating any motion for ruling with the hearing of the contested case. Any party desiring a ruling on a motion prior to the hearing may concisely set forth the necessity of prior ruling in the motion, application or resistance. If a pre-answer motion alleging lack of jurisdiction is overruled or consolidated with hearing of the contested case, the party shall plead to the merits and proceed to hearing of the contested case without submitting to the jurisdiction of the workers' compensation commissioner. If a motion attacking a pleading is consolidated with hearing of the contested case, the party shall respond to the pleading in the same manner as if the motion had been overruled.

(4) *Withdrawal of counsel.* Counsel may withdraw if another counsel has appeared or if the client's written consent accompanies the withdrawal.

Under all other circumstances, counsel may withdraw only upon the order of the workers' compensation commissioner after making written application. Counsel shall give the client written notice that the client has the right to object to the withdrawal by filing written objections and a request for a hearing to the Workers' Compensation Division, 6200 Park Avenue, Suite 100, Des Moines, IA 50321, within ten days following the date the notice was mailed or personally delivered to the client. The client's response does not need to be filed in WCES but may be mailed or delivered to the division. Counsel's application shall be accompanied by proof that a copy of the application and notice was sent by certified mail addressed to the client's last-known address or was delivered to the client personally. If no objections are timely filed, the withdrawal will become effective when approved by the workers' compensation commissioner. If objections are timely filed, a hearing on the application will be held. No withdrawal under this subrule will be effective without the approval of the workers' compensation commissioner. The filing of an application to withdraw stays all pending matters until a ruling is made on the application.

(5) *Pro hac vice.* An out-of-state attorney desiring to appear pro hac vice in an Iowa workers' compensation division case is required to access the office of professional regulation (OPR)/supreme court commissions (SCC) website, submit certain personal information to complete pertinent fields in the lawyer database, and pay a fee that will be deposited in the client security trust fund. The registration and fee payment allow the attorney to apply to appear pro hac vice in Iowa division of workers' compensation cases, subject to the limits and requirements of Iowa Court Rule 31.14, for a period of up to five years from the date of registration. Attorneys who register and pay the fee appear in the OPR/SCC database with the status of "pro hac vice." The Iowa division of workers' compensation will request from the Iowa courts that a pro hac vice number be issued and will provide that number to the out-of-state attorney for registration with WCES. The affiliated in-state attorney shall file in WCES the application to appear pro hac vice completed by the out-of-state attorney using a pleading that is substantially similar to Iowa Court Rule 31.25—Form 1.

This rule is intended to implement the provisions of Iowa Code section 17A.12.

876--2506.40(10A,87) Insurance carrier as a party.

Whenever any insurance carrier shall issue a policy with a clause in substance providing that jurisdiction of the employer is jurisdiction of the insurance carrier, the insurance carrier shall be deemed a party in any action against the insured.

This rule is intended to implement Iowa Code section 87.10.

876--2506.41 Signatures on documents and papers.

All documents and papers required by these rules, the Iowa Rules of Civil Procedure as applicable,

or a statutory provision shall be signed by the party if unrepresented or the party's attorney if represented. The party's signature in addition to the attorney's signature shall be necessary only when otherwise required by these rules, the Iowa Rules of Civil Procedure as applicable, and any statutory provision. Iowa R. Elec. P. 16.305 concerning signatures is applicable to WCES.

This rule is intended to implement Iowa Code sections 17A.12.

876--2506.42 Service on parties.

Any document or paper not delivered under rules 876—2506.36(10A, 85,17A) and 876—2506.37(10A,17A) which is to be filed and seeks relief from or action against another party, or which has any significant effect on any contested case, shall be served on each party of record under rule 876—2506.43(10A).

This rule is intended to implement Iowa Code sections 10A.319 and 17A.12.

876--2506.43 Method of service.

Except as provided in rules 876—2506.36(10A, 85,17A) and 876—2506.37(10A,17A), service of all documents and papers to be served according to this chapter or otherwise upon a party represented by an attorney shall be made upon the attorney unless service upon the party is ordered by the workers' compensation commissioner or deputy workers' compensation commissioner. Service upon the attorney or party shall be made using WCES once a party or party's attorney has registered in WCES for the claim being contested. If a party has been granted a waiver of the mandatory use of WCES or if a party or attorney has not appeared in WCES, service upon the attorney or party shall be made by delivery of a copy or mailing a copy to the last-known address of the attorney or party or, if no address is known, by filing a copy with the division of workers' compensation. Delivery of a copy within this rule means handing it to the attorney or party; leaving it at the office of the attorney or party's office or with the person in charge of the office; or if there is no one in charge of the office, leaving it in a conspicuous place in the office; or if the office is closed or the person to be served has no office, leaving it at the person's dwelling house, or usual place of abode with some person of suitable age and discretion who is residing at the dwelling or abode. Service by mail under this rule is complete upon mailing. Documents that are served on a party for discovery and medical evidence under rules 876—2506.44(10A) and 876—2506.47(10A, 17A, 85,) shall not be filed with the division of workers' compensation. No documents or papers referred to in this rule shall be served by the workers' compensation commissioner.

This rule is intended to implement Iowa Code sections 10A.319 and 17A.12.

876--2506.44(10A) Filing of documents and papers.

All documents and papers required to be served on a party under rule 876—2506.42(10A) shall be filed with the workers' compensation commissioner either before service or within a reasonable time thereafter. No deposition, notice of deposition, notice of requests for discovery, notice of responses to requests for discovery, and notice of medical records and reports required to be served by rule 876—2506.46(10A) shall be filed with or accepted for filing in WCES unless ordered by the workers' compensation commissioner or a deputy workers' compensation commissioner, or its use becomes otherwise necessary in the action, in which case it shall be attached to the relevant motion or response to the motion requiring its use, or unless offered as evidence at hearing of the contested case.

This rule is intended to implement Iowa Code section 10A.319.

876—2506.45(10A) Proof of service.

Proof of service of all documents and papers to be served on another party under rule 876—

2506.42(10A) shall be filed with the division of workers' compensation promptly and, in any event, before action is to be taken thereon by the workers' compensation commissioner or a deputy workers' compensation commissioner or any party unless a responsive pleading has been filed. Proof shall be made by filing the document in WCES when another party is registered in WCES for that claim. If a party or a party's attorney or representative is not in WCES for the claim being contested, the proof shall show the date and manner of service and may be by written acknowledgment of service, by certification of a member of the bar of this state, by affidavit of the person who served the papers, or by any other proof satisfactory to the workers' compensation commissioner. This rule is intended to implement Iowa Code section 10A.319.

876--2506.46 Service of records and reports.

Each party to a contested case shall serve all records received pursuant to a patient's waiver (Form 14-0043—authorization for release of information regarding claimants seeking workers' compensation benefits) and medical records and reports concerning the injured worker in the possession of the party upon each opposing party not later than 20 days following filing of an answer or, if not then in possession of a party, within 10 days of receipt. Medical records and reports are records of medical practitioners and institutions concerning the injured worker. Medical practitioners and institutions include physicians, physician assistants, surgeons, osteopathic physicians and surgeons, chiropractors, dentists, nurses, podiatrists, psychiatrists, psychologists, counselors, hospitals, clinics, persons engaged in physical or vocational rehabilitation or evaluation for rehabilitation, all other practitioners of the healing arts or sciences, and all other institutions in which the healing arts or sciences are practiced. Each party shall serve a notice accompanying the records and reports identifying the records and reports served by the name of the practitioner or institution or other source and date of the records and reports and, if served later than 20 days following filing of the answer, stating the date when the records and reports were received by the party serving them. Pursuant to rule 876—2506.44(10A), the notice and records and reports shall not be filed with the workers' compensation commissioner. A party failing to comply with the provisions of this rule shall, if the failure is prejudicial to an opposing party, be subject to the provisions of rule 876—2506.62(10A). This rule does not require a party to serve any record or report that was previously served by another party in a contested case proceeding. Compliance with this rule does not automatically permit a record or report to be received into evidence if the record or report was not served prior to an applicable deadline established by rule or order for completing discovery or service of exhibits.

This rule is intended to implement Iowa Code sections 10A.310 and 10A.319.

876—2506.47 Medical evidence and discovery.

Discovery in workers' compensation proceedings is governed by the rules of civil procedure pursuant to 876—2506.61(10A). Any relevant medical record or report served upon a party in compliance with these rules prior to any deadline established by order or rule for service of the records and reports shall be admissible as evidence at hearing of the contested case unless otherwise provided by rule. Any party against which a medical record or report may be used shall have the right, at the party's own initial expense, to cross-examine by deposition the medical practitioner producing the record or report and the deposition shall be admissible as evidence in the contested case.

This rule is intended to implement Iowa Code sections 10A.310 and 10A.319.

876—2506.48 Prehearing procedure.

2506.48(1) Prehearing procedure in contested cases shall be administered in accordance with these rules and the orders issued by the workers' compensation commissioner or a deputy workers' compensation commissioner.

2506.48(2) Counsel of record and pro se litigants have a duty to exercise reasonable diligence to bring the contested case to hearing at the earliest reasonable opportunity.

2506.48(3) For contested cases that were filed on or after July 1, 2004, the following time limits govern prehearing procedure, completion of discovery and case management in contested cases, except proceedings under rules 876—2506.64(10A, 17A,85,) and 876—2506.65 (10A, 17A,85,) and except when otherwise ordered by the workers' compensation commissioner or a deputy workers' compensation commissioner.

a. Within 120 days, but not less than 60 days, following filing of a petition, the counsel of record for all parties and all pro se litigants shall utilize WCES scheduling procedures to request an available hearing timeslot consistent with the presiding deputy commissioner's hearing schedule. Claimant has primary responsibility for initiating the contact. The parties shall identify the case by file number and the names of the parties and request that the hearing be set at a specific date, place and time that is shown to be available on the hearing scheduler published on the division's Web site. Primary and backup times must be requested for hearings in venues other than Des Moines. When the contact is made by E-mail, a copy of the request shall be sent to each opposing party, and the hearing administrator will reply indicating whether or not the case is assigned at the time requested. If a request is denied, the parties shall continue to contact the hearing administrator by telephone or E-mail until the case is scheduled or a prehearing conference is ordered. A joint scheduling contact may be initiated by any party at any other time agreeable to the parties. If more than 120 days have elapsed since the petition was filed, any party may move to schedule the hearing at a particular date, time and place that is available and the hearing administrator may assign the case for hearing at that date, time and place. The hearing date shall be within 12 months following the date the petition was filed or as soon thereafter as reasonably practicable as determined by the hearing administrator. If the parties fail to schedule the hearing with the hearing administrator, the case will be scheduled at the discretion of the hearing administrator without prior notice to the parties.

b. A party who intends to introduce evidence from an expert witness, including a rebuttal expert witness, shall certify to all other parties the expert's name, subject matter of expertise, qualifications, and a summary of the expert's opinions within the following time period: (1) claimant—120 days before hearing; (2) employer/second injury fund of Iowa— 90 days before hearing; (3) rebuttal—60 days before hearing. Certification is not required to introduce evidence from an examining physician pursuant to Iowa Code section 85.39, a treating physician, or a vocational consultant if the expert witness is known by all parties to have personally provided services to the claimant and the witness's reports are served on opposing parties prior to the date when certification is required. The parties may alter these times by written agreement.

c. Discovery responses must be supplemented as required in Iowa Rules of Civil Procedure 1.503(4) and 1.508(3). Discovery responses shall be supplemented within 20 days after a party requests supplementation. All discovery responses, depositions, and reports from independent medical examinations shall be completed and served on opposing counsel and pro se litigants at least 30 days before hearing. The parties may alter these times by written agreement.

d. At least 30 days before hearing, counsel of record and pro se litigants shall serve a witness and exhibit list on all opposing counsel and pro se litigants and exchange all intended exhibits that were not previously required to be served. The witness list shall name all persons, except the claimant, who will be called to testify at the hearing or who will be deposed prior to the hearing in lieu of testifying at the hearing. The exhibit list must specifically identify each exhibit in a way that permits the opposing party to recognize the exhibit. The description for a document should include the document's date, number of pages and author or source. Exhibits that were specifically identified when served pursuant to rule 876—2506.46(10A, 17A, 85) or in a discovery response may be collectively identified by describing the service such as "exhibits described in the notices served pursuant to rule 876—2506.46(10A, 17A, 85) on May 7, June 11 and July 9, 2004." Blanket references such as "all medical records," "personnel file" or "records produced during discovery" do not specifically identify an exhibit. A party may serve a

copy of the actual intended exhibits in lieu of an exhibit list. Evidentiary depositions pursuant to Iowa Code section 10A.319(2) may be taken at any time before the hearing in lieu of the witness testifying at the hearing.

e. If evidence is offered at hearing that was not disclosed in the time and manner required by these rules, as altered by order of the workers' compensation commissioner or a deputy workers' compensation commissioner or by a written agreement by the parties, the evidence will be excluded unless the offering party demonstrates good cause for failure to comply with the rules or order. Sanctions may be imposed pursuant to 876—2506.62(10A) in addition to or in lieu of exclusion if exclusion is not an effective remedy for the prejudice.

f. Counsel and pro se litigants shall prepare a hearing report that defines the claims, defenses, and issues that are to be submitted to the deputy commissioner who presides at the hearing. The hearing report shall be signed by all counsel of record and pro se litigants and submitted to the deputy when the hearing commences.

g. At least 14 days before the hearing, the parties shall file proposed hearing exhibits. The proposed joint exhibits shall not exceed 100 pages. The proposed claimant's exhibits shall not exceed 50 pages. The proposed defendants' exhibits shall not exceed 50 pages. The workers' compensation commissioner, or a deputy workers' compensation commissioner, may, upon a showing of good cause, allow proposed hearing exhibits in excess of the page limits mentioned herein.

h. Jurisdictional deadlines, including but not limited to any applicable statute of limitations, cannot be extended. It is each party's responsibility to ensure that a document is filed timely to comply with jurisdictional deadlines. A technical failure, including a failure of WCES, will not excuse a failure to comply with a jurisdictional deadline.

i. A party is not excused from missing a jurisdictional or nonjurisdictional filing deadline because of problems attributable to the party.

This rule is intended to implement Iowa Code chapter 10A.

876--2506.49 Prehearing conference.

A deputy workers' compensation commissioner or the workers' compensation commissioner may order parties in the case to either appear before the workers' compensation commissioner or a deputy workers' compensation commissioner for a conference, or communicate with the commissioner or a deputy commissioner and with each other in any manner as may be prescribed to consider, so far as applicable to the particular case:

1. The necessity or desirability of amending pleadings by formal amendment or prehearing order;
2. Agreeing to admissions of facts, documents or records not really controverted, to avoid unnecessary proof;
3. Limiting the number of witnesses;
4. Settling any facts of which the workers' compensation commissioner or a deputy workers' compensation commissioner is to be asked to take official notice;
5. Stating and simplifying the factual and legal issues to be determined;
6. Specifying the items and amounts of compensation claimed;
7. Specifying all proposed exhibits and proof thereof;
8. Consolidation of cases and bifurcation of issues;
9. Specifying all witnesses expected to testify;
10. Possibility of settlement;
11. Filing of advance briefs, if any;
12. Setting or altering dates for completion of discovery or completion of medical evidence by each party;
13. Any other matter which may facilitate, expedite, or simplify any contested case.

This rule is intended to implement Iowa Code sections 10A.318 and 10A.319.

876--2506.50 Prehearing conference record.

At the request of any attorney in the case, or at the discretion of a deputy workers' compensation commissioner or the workers' compensation commissioner, the entire prehearing conference or any designated part thereof shall be recorded and the cost of the reporter shall be assessed to the requesting party or, if directed by the workers' compensation commissioner or deputy workers' compensation commissioner, assessed as costs.

This rule is intended to implement Iowa Code sections 10A.318 and 10A.319.

876--2506.51. Assignment for hearing.

Contested cases shall be set for hearing within the discretion of the workers' compensation commissioner as soon as practicable after the parties have had adequate opportunity to prepare for hearing. A party may request in writing that no hearing in a contested case be held until such time as specified matters have been accomplished or specified events have occurred. Continuances of hearings in contested cases shall be granted only by the workers' compensation commissioner or the commissioner's designee. Continuances are governed by Iowa Rules of Civil Procedure 1.910-1.912. Requests for continuance shall also state in detail the reasons for the request and whether the opposing party accedes to the request. Defendants shall promptly notify the workers' compensation commissioner of settlements.

This rule is intended to implement Iowa Code sections 10A.310 and 10A.319.

876--2506.52 Rehearing.

Any party may file an application for rehearing of a proposed decision in any contested case by a deputy commissioner or a decision in any contested case by the workers' compensation commissioner within 20 days after the issuance of the decision. If a party has been allowed to file not using WCES or a party to the claim is not in WCES, a copy of such application shall be timely mailed by the applicant to all parties of record not joining therein. An application for rehearing shall be deemed denied unless the deputy commissioner or workers' compensation commissioner rendering the decision grants the application within 20 days after its filing. For purposes of this rule, motions or requests for reconsideration or new trial or retrial or any reexamination of any decision, ruling, or order shall be treated the same as an application for rehearing.

This rule is intended to implement Iowa Code chapters 10A, 17A, 85, 85A, 85B.

876--2506.53 - Appeal when rehearing requested.

An appeal to or review on motion of the workers' compensation commissioner must be filed within 20 days after the application for rehearing of a proposed decision by a deputy workers' compensation commissioner under 876—2506.52(17A,10A) has been denied or deemed denied or a decision on rehearing has been issued. If a notice of appeal is filed by one party and an application for rehearing is filed by a different party, the deputy retains jurisdiction to act on the application for rehearing, and the notice of appeal is stayed and deemed to have been filed on the day after the application for rehearing is denied or deemed denied or the decision on rehearing is issued.

This rule is intended to implement Iowa Code sections 10A.321, 17A.15, and 17A.16.

876--2506.54 - Appeal.

Except as provided in 876—2506.33(10A) and 876—2506.53 (10A), an appeal to the commissioner from a decision, order or ruling of a deputy commissioner in contested case proceedings shall be commenced within 20 days of the filing of the decision, order or ruling by filing a notice of appeal with the workers' compensation commissioner. If two or more contested cases were consolidated for hearing, the notice of appeal shall specify which of the contested cases are being appealed. The date the notice of appeal is filed shall be the date the notice of appeal is received by the agency. The notice shall be served on the opposing parties as provided in 876—2506.43(10A). An appeal shall be heard in Polk County or in any location designated by the workers' compensation commissioner.

An interlocutory decision, order or ruling can be appealed only as hereinafter provided. A decision, order or ruling is interlocutory if, when issued, it does not dispose of all issues in the contested case that are ripe for adjudication. If the sole issue remaining for determination is claimant's entitlement to additional compensation for unreasonable denial or delay of payment pursuant to Iowa Code section 10A.315, the decision is not interlocutory. An adjudication that awards ongoing payments of weekly compensation under Iowa Code section 85.33 or 85.34(1) is not interlocutory. The workers' compensation commissioner may, upon application from any party or on the commissioner's own motion, and upon such terms as the commissioner orders, grant an appeal from an interlocutory decision, order or ruling if the commissioner finds that the ruling affects substantial rights, that the ruling will materially affect the final decision and that determination of the correctness of the ruling will better serve the interests of justice.

A cross-appeal may be taken under this rule or 876—2506.53(10A, 17A) in the same manner as an appeal within the 20 days for the taking of an appeal or within 10 days after filing of the appeal, whichever is later.

This rule is intended to implement Iowa Code sections 10A.321, and 17A.15.

876--2506.55 - Briefing requirements on appeal.

2506.55(1) The workers' compensation commissioner shall decide an appeal upon the record submitted to the deputy workers' compensation commissioner unless the workers' compensation commissioner is satisfied that additional newly discovered material evidence exists, which could not have been discovered and produced at the hearing with reasonable diligence. A party must file a request for taking additional evidence in WCES within 20 days after the notice of appeal was filed. If a party has been granted a waiver of the mandatory use of WCES, the party shall file the request for taking additional evidence with the division of workers' compensation and serve a copy on the other parties. Any briefs required or allowed by this rule shall be filed promptly following service. The agency will take additional evidence only if the party establishes that the evidence is material, that good cause existed for its not being presented at the hearing, and that the party has not waived the right to present the evidence.

2506.55(2) Time for serving briefs. Appellant shall serve its brief within 50 days after the date on which notice of appeal was filed, or within 20 days after filing of the hearing transcript, whichever date is later. Appellee shall serve its brief within 20 days after service of the brief of appellant. If appellant serves a reply brief, it shall be done within 10 days after service of appellee's brief.

2506.55(3) Cross-appeals. In the event of a cross-appeal, appellee (cross-appellant) shall serve its brief within 20 days after service of the brief of appellant. Appellant (cross-appellee) shall serve its

responsive reply brief within 20 days after service of the brief of appellee. Appellee (cross-appellant) may serve a reply brief within 10 days after service of appellant's reply brief. When more than one party appeals, the party filing the first notice of appeal will be designated the appellant and the party filing a subsequent notice of appeal will be designated the cross-appellant.

2506.55(4) Multiple adverse parties. In cases involving multiple appeals involving multiple claimants, employers, insurance carriers or the second injury fund, the workers' compensation commissioner shall enter an order establishing a briefing schedule.

2506.55(5) Form of briefs. Respective briefs and exceptions on appeal shall include the following:

a. Statement of the case.

b. Statement of the issues on appeal.

c. An argument corresponding to the separately stated issues and contentions of appellant with respect to the issues presented and reasons for them, with specific reference to the page or pages of the transcript which are material to the issues on appeal.

d. A short conclusion stating the precise relief sought.

The appellee may submit a brief on appeal replying to the issues presented by the appellant, unless a cross-appeal is made in which case the brief of appellee shall contain the issues and argument involved in the cross-appeal as well as the response to the brief of appellant.

2506.55(6) Length of briefs. See rule 876—2506.63(10A, 17A).

2506.55(7) Extensions. One extension of up to 30 days will be granted if a motion to extend the time is served on or before the date service of the brief is required by this rule. A subsequent extension requires a motion showing good cause. The commissioner may grant a party the right to serve and file a brief after the time to do so has expired if the appeal or cross-appeal has not been dismissed or decided, the party moves for relief within 60 days from the date service of the brief was due, and the motion shows that the failure to timely serve the brief was due to a good cause that could not have been avoided through the exercise of reasonable diligence.

2506.55(8) Issues considered on appeal. The appeal will consider the issues presented for review by the appellant and cross-appellant in their briefs and any issues necessarily incident to or dependent upon the issues that are expressly raised, except as provided in rule 876—2506.56(10A, 17A). An issue will not be considered on appeal if the issue could have been, but was not, presented to the deputy workers' compensation commissioner. An issue raised on appeal is decided de novo and the scope of the issue is viewed broadly. If the ruling from which the appeal was taken made a choice between alternative findings of fact, conclusions of law, theories of recovery or defenses and the alternative selected in the ruling is challenged as an issue on appeal, de novo review includes reconsideration of all alternatives that were available to the deputy.

2506.55(9) Sanctions. If an appellant's brief or cross-appellant's brief is not served and filed within the time required by this rule, including any extension, the party defending against the appeal or cross-appeal may move for dismissal. If an appellant's brief or cross-appellant's brief is not served within 30 days after the time required by these rules, including any extension, the workers' compensation commissioner will notify the party in default that upon 15 days from service of the notification the appeal or cross-appeal will be dismissed for want of prosecution unless the default is remedied within that period. If the default is not remedied, the appeal or cross-appeal will be dismissed. If an appellee's

brief or cross-appellee's brief is not served and filed, the appeal will be decided without reference to that brief.

This rule is intended to implement Iowa Code section 10A.321.

876--2506.56 - Review upon motion.

Except as provided in 876—2506.53(10A, 17A) the commissioner may review the decision, order or ruling of a deputy commissioner in any contested case upon the commissioner's own motion. Except as provided in 876—2506.53(10A, 17A), the motion to review a decision, order or ruling in all contested cases must be filed within 20 days of the filing of the decision, order or ruling. The commissioner shall specify in a notice filed in WCES or mailed to the parties by certified mail, return receipt requested, on the date of filing of the motion the issues to be reviewed and the additional evidence, if any, to be obtained by the parties. The hearing under this rule shall be heard in Polk County or in any locality designated by the workers' compensation commissioner.

This rule is intended to implement Iowa Code sections 10A.321 and 17A.15.

876—2506.57 - Transcript on appeal or review.

When an appeal to or review on motion of the workers' compensation commissioner is taken pursuant to rule 876—2506.54(10A, 17A,) or 876—2506.56(10A,17A), a transcript of the proceedings before the workers' compensation commissioner shall be filed with the workers' compensation commissioner within 30 days after the notice of the appeal is filed with the workers' compensation commissioner. The appealing party shall bear the initial cost of transcription on appeal and shall pay the certified shorthand reporter or service for the transcript. In the event there is a cross-appeal, the appellant and cross-appellant shall share the cost of the transcript. In the event the cost of the transcript has been initially borne by a nonappealing party prior to appeal, the nonappealing party is entitled to reimbursement within 30 days after serving on the appealing party proof of the cost of the transcript. If not so reimbursed, the appeal may be dismissed.

This rule is intended to implement Iowa Code sections 10A.320, 10A.321, 10A.328, 17A.12, and 17A.15.

876—2506.58 - Recording of proceedings.

The workers' compensation commissioner may arrange for the attendance of a certified shorthand reporter or mechanical means to record proceedings in contested cases. The workers' compensation commissioner may require the defendant employer or on appeal to the workers' compensation commissioner, the appellant, to arrange for the attendance of a certified shorthand reporter or adequate mechanical means of recording the proceedings. The charges for attendance shall be paid initially to the certified shorthand reporter or service by the employer or, on an appeal to the workers' compensation commissioner, the appellant. The charges shall be taxed as costs. The party initially paying the expense shall be reimbursed by the party taxed with the cost. If the expense is unpaid, it shall be paid by the party taxed with the cost.

This rule is intended to implement Iowa Code section 10A.320.

876—2506.59 Costs.

Costs taxed by the workers' compensation commissioner or a deputy workers' compensation commissioner shall be:

1. attendance of a certified shorthand reporter or presence of mechanical means at hearings and evidential depositions;

2. transcription costs when appropriate;
3. costs of service of the original notice and subpoenas,
4. witness fees and expenses as provided by Iowa Code sections 622.69 and 622.72,
5. the costs of doctors' and practitioners' deposition testimony, provided that said costs do not exceed the amounts provided by Iowa Code sections 622.69 and 622.72,
6. the reasonable costs of obtaining no more than two doctors' or practitioners' reports,
7. filing fees when appropriate, including convenience fees incurred by using the WCES payment gateway, and
8. costs of persons reviewing health service disputes.

Costs of service of notice and subpoenas shall be paid initially to the serving person or agency by the party utilizing the service. Expenses and fees of witnesses or of obtaining doctors' or practitioners' reports initially shall be paid to the witnesses, doctors or practitioners by the party on whose behalf the witness is called or by whom the report is requested. Witness fees shall be paid in accordance with Iowa Code section 622.74. Proof of payment of any cost shall be filed with the workers' compensation commissioner before costs are taxed. The party initially paying the expense shall be reimbursed by the party taxed with the cost. If the expense is unpaid, it shall be paid by the party taxed with the cost. Costs are to be assessed at the discretion of the deputy workers' compensation commissioner or workers' compensation commissioner hearing the case unless otherwise required by the Iowa Rules of Civil Procedure governing discovery.

This rule is intended to implement Iowa Code section 10A.328.

876—2506.60 Dismissal for lack of prosecution.

It is the declared policy that in the exercise of reasonable diligence, all contested cases before the workers' compensation commissioner, except under unusual circumstances, shall be brought to issue and heard at the earliest possible time. To accomplish such purpose the workers' compensation commissioner may take the following action:

2506.60(1) Any contested case, where the original notice and petition is on file in excess of two years, may be subject to dismissal after the notice in 2506.60(2) is sent to all parties and after the time as provided for in the notice.

2506.60(2) After the circumstances provided in 2506.60(1) occur, all parties to the action, or their attorneys, shall be sent notice from the division of workers' compensation by certified mail containing the following:

- a. The names of the parties;
- b. The date or dates of injury involved in the contested case or appeal proceeding;
- c. Counsel appearing;
- d. Date of filing of the petition or appeal;
- e. That the contested case proceeding will be dismissed without prejudice on the thirtieth day following the date of the notice unless good cause is shown why the contested case proceeding should not be dismissed.

2506.60(3) The action or actions dismissed may at the discretion of the workers' compensation commissioner and shall upon a showing that such dismissal was the result of oversight, mistake or other reasonable cause, be reinstated. Applications for such reinstatement, setting forth the grounds, shall be filed within three months from the date of dismissal.

This rule is intended to implement Iowa Code sections 10A.310, 10A.319, and 17A.3(1)“b”.

876—2506.61 Rules of civil procedure.

The rules of civil procedure shall govern the contested case proceedings before the workers' compensation commissioner unless the provisions are in conflict with these rules and Iowa Code chapters 85, 85A, 85B, 10A, 87 and 17A. In those circumstances, these rules or the appropriate Iowa Code section shall govern. Where appropriate, reference to the word “court” shall be deemed reference to the “workers' compensation commissioner” and reference to the word “trial” shall be deemed reference to “contested case hearing.”

This rule is intended to implement Iowa Code sections 10A.310, 17A.1, 17A.12, 17A.13, and 17A.14.

876—2506.62 Compliance with order or rules.

If any party to a contested case or an attorney representing such party shall fail to comply with these rules or any order of a deputy workers' compensation commissioner or the workers' compensation commissioner, the deputy workers' compensation commissioner or workers' compensation commissioner may impose sanctions which may include dismissing the action without prejudice, excluding or limiting evidence, assessing costs or expenses, and closing the record in whole or in part to further activity by the party.

This rule is intended to implement Iowa Code section 10A.310.

876—2506.63. Length of Briefs.

Except by permission of the presiding deputy workers' compensation commissioner or by permission of the workers' compensation commissioner when an appeal pursuant to rule 876—2506.54(10A, 17A) has been filed, principal briefs shall not exceed 50 Arabic-numbered pages. Reply briefs shall not exceed 25 Arabic-numbered pages. In the event of a cross-appeal, appellant's (cross-appellee's) responsive reply brief shall be considered a principal brief. The type used shall not be smaller than pica type, and each line shall contain an average of no more than 60 characters. If a brief is submitted in excess of the length allowed in this rule, the portion exceeding the allowable length will not be considered. This rule does not prohibit a presiding deputy workers' compensation commissioner or the workers' compensation commissioner from limiting the length of a brief. An exception to this rule is the length of briefs (three pages) in an application for alternate care.

This rule is intended to implement Iowa Code sections 17A.12, 17A.15, 10A.310, 10A.319, and 10A.321.

876—2506.64 Contested case proceedings—health service disputes.

(1) See rule 876—10.3(10A, 17A, 85) for informal resolution procedures and definitions. The following definition also applies to this rule:

“*Petitioning party*” means the person who requests or initiates a contested case proceeding.

(2) If utilization of the procedures given in rule 876—10.3(10A, 17A, 85) does not resolve the dispute and the parties have complied with the good faith requirements of rule 876—10.1(10A, 17A, 85), a contested case may be initiated. The procedures given in rule 876—10.3(10A, 17A, 85) must be used prior to initiation of a contested case. The provider or the responsible party that is unwilling to accept the determination of the person making a determination after reviewing the dispute as provided in rule 876—10.3(10A, 17A, 85) shall initiate the contested case proceeding. The proceeding shall be initiated as provided in this chapter and Iowa Code chapter 17A and shall follow the provisions of this rule. The proceeding must be initiated within 30 days of the date of the determination made pursuant to rule 876—10.3(10A, 17A, 85). If a contested case proceeding is not initiated or is not initiated within the time provided in this rule, the allowed amount of the charge by the provider shall be the amount determined pursuant to rule 876—10.3(10A, 17A, 85).

(3) The evidence submitted in the contested case proceeding shall be limited to the evidence submitted pursuant to rule 876—10.3(10A, 17A, 85) and a copy of the determination made pursuant to rule 876—10.3(10A, 17A, 85). This evidence shall be filed by the party requesting the contested case proceeding at the time the contested case proceeding is initiated. However, the workers' compensation commissioner may request that additional evidence be submitted or may grant submission of additional evidence if the workers' compensation commissioner is satisfied that there exists additional material evidence, newly discovered, which could not with reasonable diligence be discovered and produced pursuant to rule 876—10.3(17A, 85, 10A). The issues of the contested case proceeding shall be limited to the dispute considered in rule 876—10.3(10A, 17A, 85).

(4) The petitioning party has the burden of proof.

(5) If the petitioning party wishes to file a brief, it must be filed with the request for contested case proceeding.

(6) The opposing party must file a response within 30 days of the date of service of the request for contested case proceeding.

(7) If the opposing party wishes to file a brief, it must be filed with the response.

(8) Sixty days after the request for contested case is filed with the workers' compensation commissioner, the workers' compensation commissioner will review the matter. The notice of the review to the parties shall be the provisions of this rule and no other notice will be given.

(9) The workers' compensation commissioner shall review the matter and make a decision as soon as practicable after the review. The decision shall be as provided in this chapter and Iowa Code chapter 17A.

This rule is intended to implement Iowa Code sections 10A.310, 10A.327, 17A.10, 17A.12, 17A.14, and 85.27.

876--2506.65 Application for Alternate Care

(1) *Purpose.* The purpose of this rule is to establish the procedures for issuing decisions on applications for alternate care within the time provided in Iowa Code section 85.27.

(2) *Definitions.* The following definitions apply to this rule:

“*Application for alternate care*,” hereinafter referred to as “application,” shall mean a contested case proceeding filed with the workers’ compensation commissioner which requests alternate care pursuant to Iowa Code section 85.27.

“*Employer*” means the person or entity who is liable for payment of medical services provided pursuant to the Iowa workers’ compensation laws and includes an employer, an employer who has been relieved from insurance pursuant to Iowa Code section 87.11, and an insurance carrier which provides an employer with workers’ compensation insurance.

“*Proper application*” means an application for alternate care that complies with the requirements of this rule.

(3) *Dissatisfaction—basis.* Prior to filing the application the employee must communicate the basis of dissatisfaction of the care to the employer.

(4) *Application.* The application shall: be filed on the form provided by the workers’ compensation commissioner; concern only the issue of alternate care; state the reasons for the employee’s dissatisfaction with the care chosen by the employer; be served on the employer; contain proof of service on the employer; and specify whether a telephone or in-person hearing is requested.

(5) *Fee.* No filing fee is due. See 876—2506.38(2)“a.”

(6) *Employer liability.* Application cannot be filed under this rule if the liability of the employer is an issue. If an application is filed where the liability of the employer is an issue, the application will be dismissed without prejudice. (Petitions for alternate care where liability of the employer is an issue should be filed pursuant to rule 876—2506.32(3)(10A, 85,85A,85B, 87,17A).)

(7) *Notice of hearing.* The workers’ compensation commissioner will notify the parties by ordinary mail, by facsimile transmission (fax), by electronic mail (e-mail), or by WCES of the time, place and nature of the hearing. No notice will be made until a proper application is received by the workers’ compensation commissioner. The notice will specify whether the hearing will be by telephone, in person or by other digital means.

(8) *Appearance or answer.* After being served with an application for alternate care, the employer shall file an appearance of answer as soon as practicable before the time of the hearing.

(9) *Discovery and evidence.* All discovery must be completed prior to the contested case hearing. See subrule 876--2506.35(10) on motions on discovery matters. Any written evidence to be used by the employer or the employee must be exchanged prior to the hearing. All written evidence must be filed with the agency before the date of the hearing. Written evidence shall be limited to ten pages per party.

(10) *Motions.* All motions except as provided in this subrule will be considered at the hearing. A timely motion to change the type of hearing (telephone or in-person) may be considered prior to the hearing. The workers’ compensation commissioner will make no rulings on discovery matters or motions.

(11) *Briefs.* Hearing briefs, if any, must be filed with the agency before the date of the hearing and shall be limited to three pages.

(12) *Hearing.* The hearing will be held by telephone, in person or by other digital means in Des Moines, Iowa. The employer shall have the right to request an in-person hearing if the employee has requested a telephone hearing in the application. The employer shall on the record respond to the allegations contained in the application. The hearing will be electronically recorded. If there is an appeal of a proposed decision or judicial review of final agency action, the appealing party is responsible for filing a transcript of the hearing.

Copies of the recording will be provided to the parties upon notice of appeal. A transcript shall be provided by the appealing party pursuant to Iowa Code section 10A.321(4) and a copy thereof shall be served on the opposing party at the time the transcript is filed with the workers' compensation commissioner unless the parties submit an agreed-upon transcript. If a party disputes the accuracy of any transcript prepared by the opposing party, that party shall submit its contentions to the workers' compensation commissioner for resolution. Any transcription charges incurred by the workers' compensation commissioner in resolving the dispute shall be initially paid pursuant to Iowa Code section 10A.320(1) by the party who disputes the accuracy of the transcript prepared by the appellant.

(13) *Represented party.* A party may be represented as provided in Iowa Code section 631.14. The presiding deputy workers' compensation commissioner may permit a party who is a natural person to be assisted during a hearing by any person who does so without cost to that party if the assistance promotes full and fair disclosure of the facts or otherwise enhances the conduct of the hearing. The employer and its insurance carrier shall be treated as one party unless their interests appear to be in conflict and a representative of either the employer or its insurance carrier shall be deemed to be a representative of both unless notice to the contrary is given.

(14) *Decision.* A decision will be issued within 10 working days of receipt of a proper application when a telephone hearing is held or within 14 working days of receipt of a proper application when an in-person hearing is held.

This rule is intended to implement Iowa Code sections 10A.310, 10A.318, 17A.12, and 85.27.

876–2506.66 Method of holding hearing.

Any hearing held under this chapter may be by voice or video technology including but not limited to Internet-based video.

A hearing shall not be held in proceedings under subrules 876--2506.32(8) to 2506.32(12), unless otherwise ordered or requested in writing by the petitioner in the original notice and petition or by the respondent within ten days following the time allowed by these rules for appearance.

This rule is intended to implement Iowa Code sections 10A.310, 10A.318, 10A.319, 17A.12, and 85.27.

876—2506.67 Vocational training, education, and supplies.

(1) *Purpose.* The purpose of this rule is to establish the procedures for issuing decisions on applications for vocational training, education, and supplies provided for in Iowa Code section 85.70(2).

(2) *Definitions.* The following definitions apply to this rule:

“Application for vocational training and education hearing” or “application” means a contested case proceeding filed with the division of workers’ compensation contesting the results of an evaluation and determination or contesting or requesting the termination of a vocational training and education program.

“Evaluation and determination” means an assessment conducted by the department of workforce development to determine if the employee would benefit from a vocational training and education program offered through an area community college to allow the employee to return to the workforce.

“Request for vocational training and education” or “request” means a written request for an evaluation and determination of whether an employee is entitled to vocational training, education, and supplies.

“Vocational training and education” shall include general educational development programs for employees who have not graduated from high school or obtained a general education diploma, and career and technical education programs that provide instruction in the areas of agriculture, family and consumer sciences, health occupations, business, industrial technology, and marketing, offered through an area community college that will allow the employee to return to the workforce.

(3) *Application for vocational training and education.*

a. An application shall:

- (1) Only concern the issue of vocational training, education, and supplies;
- (2) Be filed on the form provided by the division of workers’ compensation;
- (3) State the reasons for the application;
- (4) Be served on the other party;
- (5) Contain a proof of service on the other party; and
- (6) Specify whether a telephone or in-person hearing is requested.

b. An application for vocational training and education must be filed in WCES unless a party has been granted a waiver of the mandatory use of WCES, in which case the party shall file the application for vocational training and education with the division of workers’ compensation. Applicant(s) must serve a copy of this form on the appellee(s) by certified mail, return receipt requested, or by personal service as in civil actions in accordance with rule 876—2506.37(10A,17A) and mail a copy to the attorney of record for the appellee(s), if known, in accordance with rule 876—2506.43(10A).

(4) *Fee.* No filing fee is due. See 876—2506.38(2)“a.”

(5) *Request for vocational education and training.* Prior to filing an application, the employee shall complete a request on a form supplied by the department of workforce development and submit the completed form to the department of workforce development asking for an evaluation and determination. The employee, employer, or insurance carrier may contest the results of the evaluation

and determination by filing an application with the division of workers' compensation.

(6) *Proper application.* An application may not be filed under this rule until:

a. An evaluation and determination has been made by the department of workforce development; and

b. There has been a finding by the division of workers' compensation or the employer or the employer's insurance carrier or both and the employee agree that the employee has sustained an injury to the shoulder resulting in a permanent partial disability for which compensation is payable under Iowa Code section 85.34(2) "n," and the employee cannot return to gainful employment because of such disability.

(7) *Notice of hearing.* The workers' compensation commissioner shall notify the parties by electronic mail, ordinary mail, facsimile, or WCES of the time, place, and nature of the hearing. No notice will be made until a proper application is received by the workers' compensation commissioner. The notice shall specify whether the hearing will be held in person, by telephone or other electronic means.

(8) *Evidence.* Any written evidence to be used by the employer, the employer's insurance carrier, or the employee must be exchanged prior to the hearing. All written evidence must be filed with the agency before the date of hearing. Written evidence shall be limited to 50 pages per party.

(9) *Motion to change hearing type.* A timely motion to change the hearing type (in person, by telephone or other electronic means) may be considered prior to the hearing. The workers' compensation commissioner will make no rulings on other types of motions.

(10) *Briefs.* Hearing briefs, if any, must be filed with the agency before the date of the hearing and shall be limited to five pages.

(11) *Hearing.* The hearing will be held either by telephone, other electronic means, or in person in Des Moines, Iowa. If the party filing the application does not request an in-person hearing in the application, the other parties may request an in-person hearing. The hearing will be recorded electronically. Copies of the recording will be provided to the parties. If there is an appeal of a proposed decision or judicial review of final agency action, the appealing party is responsible for filing a transcript of the hearing. A transcript shall be provided by the appealing party pursuant to Iowa Code section 10A.321(4) and a copy of the transcript shall be served on the opposing party at the time the transcript is filed with the workers' compensation commissioner, unless the parties submit an agreed-upon transcript. If a party disputes the accuracy of any transcript prepared by the opposing party, that party shall submit its contentions to the workers' compensation commissioner for resolution. Any transcription charges incurred by the workers' compensation commissioner in resolving the dispute shall be initially paid by the party that disputes the accuracy of the transcript, pursuant to Iowa Code section 10A.320.

(12) *Represented party.* A party may be represented as provided in Iowa Code section 631.14. The presiding deputy may permit a party who is a natural person to be assisted during a hearing by any person who does so without cost to that party if the assistance promotes full and fair disclosure of the facts or otherwise enhances the conduct of the hearing. The employer and the employer's insurance

carrier shall be treated as one party unless their interests appear to be in conflict, and a representative of either the employer or the employer's insurance carrier shall be deemed to be a representative of both unless notice to the contrary is given.

(13) *Decision.* A decision will be issued within 30 working days of receipt of a proper application.

This rule is intended to implement Iowa Code sections 10A.318, 17A.12, and 85.70(2).

876—2506.68 Agency notice of judicial review matters.

A party who petitions for judicial review shall file a copy of the petition for judicial review in WCES within ten days of filing the petition with a district court. If a party has been granted a waiver of the mandatory use of WCES, the party shall file a copy of the petition for judicial review with the division of workers' compensation within ten days of filing the petition with a district court. A party shall also file a copy of each appellate court decision in WCES within ten days of the date the appellate court decision was issued and filed. If a party has been granted a waiver of the mandatory use of WCES, the party shall file a copy of the appellate court decision with the division of workers' compensation within ten days of the date the appellate court decision was issued and filed. Within 45 days of the filing of the final appellate court decision, the same party shall notify the division of workers' compensation of the result of the appellate process.

876—2506.69 Rule of electronic procedure.

Chapter 16 of the Iowa Court Rules of Electronic Procedure shall govern the use and filings in WCES for contested case proceedings before the workers' compensation commissioner unless the provisions are in conflict with these rules or Iowa Code chapters 10A, 17A, 85, 85A, 85B, and 87 or obviously inapplicable to the workers' compensation commissioner. In those circumstances, these rules or the appropriate Iowa Code section shall govern. Where appropriate, reference to the word "court" shall be deemed reference to the "workers' compensation commissioner or deputy workers' compensation commissioner," reference to the word "trial" shall be deemed reference to "contested case hearing," and reference to "clerk of court" shall be deemed reference to staff at the workers' compensation division.