DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

~~MICHIGAN ADMINISTRATIVE HEARING SYSTEM~~
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARING RULES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

~~(By authority conferred on the Executive Director of the Michigan Administrative Hearing System by Executive Order Nos. 2005-1, 2011-4, and 2011-6, MCL 445.2021, 445.0230, 445.2032, sections 32 and 49 of 1973 PA 186, MCL 205.732 and 205.749, sections 2233, 12561, and 13322 of 1978 PA 368, MCL 333.2233, 333.12561 and 333.13322 and Executive Reorganization Order Nos. 1997-2 and 1998-2, MCL 29.451 and 29.461, section 57 of 1989 PA 300, MCL 281.1352, parts 31, 32, 41, 55, 63, 111, 115, and 201 of 1994 PA 451, MCL 324.101 to 324.90106, Executive Order 1995-16, MCL 324.99903, section 7 of 1909 PA 106, MCL 460.557, section 2 of 1909 PA 300, MCL 462.2, section 5 of 1919 PA 419, MCL 460.55, article 5, section 6 of 1933 PA 254, MCL 479.6, sections 6 and 6a of 1939 PA 6, MCL 479.6 and 479.6a, section 675, 1949 PA 300, MCL 257.675, section 5 of 1969 PA 200, MCL 247.325, section 23 of 1972 PA 106, MCL 252.323, section 210 of 1956 PA 218, MCL 500.210, section 614 of 1978 PA 368, MCL 333.16141, section 308 of 1980 PA 299, MCL 399.308, and Executive Reorganization Orders 1996-1 and 2003-1, MCL 445.2001, 445.2011, sections 6 and 9 of 1939 PA 280, MCL 400.6 and 400.9, sections 2226 and 2233 of 1978 PA 368, MCL 333.2226 and 333.2233, section 6 of 1939 PA 280, MCL 400.6 and Executive Reorganization Order Nos. 2005-1 and 2011-4, MCL 445.2021 and 445.2030, section 46 of 1974 PA 154, MCL 408.1046, section 12 of 1978 PA 390, MCL 408.482, section 213 of 1969 PA 317, MCL 418.213, and Executive Reorganization Order Nos. 1996-2, 2002-1, and 2003-1, MCL 445.201, 445.2004, 445.2011, section 34 of 1936 PA 1, MCL 421.34, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2011-4, 2011-6, MCL 445.2001, 445.2011, 445.2030, 445.2032, sections 7, 9a and 27 of 1939 PA 176, MCL 423.7, 423.9a, 423.27, and sections 12, 14 of 1947 PA 336, MCL 423.212 and 432.214 and Executive Reorganization Order Nos. 1996-2, 2011-4, and 2011-5, MCL 445.2001, 445.2030, 445.2031, section 2 of 1943 PA 240, MCL 38.2, section 15 of 1964 PA 287, MCL 388.1015, sections 1531, 1531i, 1535a, and 1539b of 1976 PA 451, MCL 380.1531, 380.1531i, 380.1535a, 380.1539b, and Executive Reorganization Order Nos. 1996-1 and 1996-7, MCL 388.993 and 338.994, section 1701 and 1703 of 1976 PA 451, MCL 380.1701, 380.1703 and Executive Order 2005-1, MCL 445.2021, section 6 of 1953 PA 232, MCL 791.206.)~~

(By authority conferred on the executive director of the Michigan administrative hearing system by Executive Reorganization Order (ERO) Nos. 2005-1, 2011-4, and 2011-6, and the Michigan office of administrative hearings and rules by ERO No. 2019-6 and ERO 2019-13, MCL 445.2021, 445.2030, 445.2032, 324.99923 and section 33 of the administrative procedures act, 1969 PA 306, MCL 24.233, as well as the following provisions applicable to specific practice areas.

Part 1: ERO 2005-1, MCL 445.2021.

Part 2: sections 32 and 49 of 1973 PA 186, MCL 205.732 and 205.749.

Part 3: sections 2233, and 13322 of 1978 PA 368, MCL 333.2233 and 333.13322; ERO Nos. 1997-2 and 1998-2, MCL 29.451 and 29.461; parts 31, 33, 41, 55, 63, 111, 115, and 201 of 1994 PA 451, MCL 324.101 to 324.90106; and ERO No. 1995-16, MCL 324.99903.

Part 4: section 7 of 1909 PA 106, MCL 460.557; section 2 of 1909 PA 300, MCL 462.2; section 5 of 1919 PA 419, MCL 460.55; article 5, sections 6 and 6a of 1939 PA 3, MCL 460.6 and MCL 460.6a, article 5, section 6 of 1933 PA 254, MCL 479.6; and ERO No. 2015-3, MCL 460.21.

Part 5: section 675, 1949 PA 300, MCL 257.675; section 5 of 1969 PA 200, MCL 247.325, and section 23 of 1972 PA 106, MCL 252.323.

Part 6: section 210 of 1956 PA 218, MCL 500.210.

Part 7: section 16141 of 1978 PA 368, MCL 333.16141.

Part 8: section 308 of 1980 PA 299, MCL 399.308, and ERO Nos. 1996-1 and 2003-1, MCL 330.3101 and 445.2011.

Part 9: sections 6 and 9 of 1939 PA 280, MCL 400.6 and 400.9; and sections 2226 and 2233 of 1978 PA 368, MCL 333.2226 and 333.2233.

Part 10: section 6 of 1939 PA 280, MCL 400.6; and ERO Nos. 2005-1, 2011-4, 2015-4 and 2018-11, MCL 445.2021 and 445.2030.

Part 11: section 46 of 1974 PA 154, MCL 408.1046.

Part 12: section 12 of 1978 PA 390, MCL 408.482, and section 7(3) of 2018 PA 338, MCL 408.967.

Part 13: section 213 of 1969 PA 317, MCL 418.213, and ERO Nos. 1996-2, 2002-1, and 2003-1, MCL 445.201, 445.2004 and 445.2011.

Part 14: section 34 of 1936 PA 1, MCL 421.34, and ERO Nos. 1996-2, 2003-1, 2011-4, 2011-6, MCL 445.2001, 445.2011, 445.2030 and 445.2032.

Part 15: sections 7, 9a and 27 of 1939 PA 176, MCL 423.7, 423.9a, 423.27, sections 12 and 14 of 1947 PA 336, MCL 423.212 and 432.214; and ERO Nos. 1996-2, 2011-4, and 2011-5, MCL 445.2001, 445.2030, 445.2031.

Part 16: section 2 of 1943 PA 240, MCL 38.2.

Part 17: section 15 of 1964 PA 287, MCL 388.1015; sections 1531, 1531i, 1535a, and 1539b of 1976 PA 451, MCL 380.1531, 380.1531i, 380.1535a and 380.1539b; and, ERO Nos. 1996-1 and 1996-7, MCL 388.993 and 388.994.

Part 18: section 1701 and 1703 of 1976 PA 451, MCL 380.1701, 380.1703, and ERO 2005-1, MCL 445.2021.

Part 19: section 6 of 1953 PA 232, MCL 791.206)

R 792.10101, R 792.10103, R 792.10104, R 792.10106, R 792.10107, R 792.10109, R 792.10110, R 792.10111, R 792.10114, R 792.10115, R 792.10119, R 792.10124, R 792.10126, R 792.10129, R 792.10131, R 792.10134, R 792.10203, R 792.10205, R 792.10207, R 792.10209, R 792.10217, R 792.10219, R 792.10221, R 792.10223, R 792.10225, R 792.10227, R 792.10229, R 792.10231, R 792.10233, R 792.10237, R 792.10247, R 792.10249, R 792.10251, R 792.10253, R 792.10257, R 792.10259, R 792.10261, R 792.10263, R 792.10265, R 792.10267, R 792.10271, R 792.10273, R 792.10275, R 792.10277, R 792.10279, R 792.10281, R 792.10285, R 792.10287, R 792.10289, R 792.10301, R 792.10302, R 792.10402, R 792.10403, R 792.10404, R 792.10405, R 792.10406, R 792.10407, R 792.10408, R 792.10410, R 792.10413, R 792.10415, R 792.10417, R 792.10418, R 792.10421, R 792.10429, R 792.10430, R 792.10432, R 792.10433, R 792.10434, R 792.10435, R 792.10436, R 792.10439, R 792.10440, R 792.10441, R 792.10442, R 792.10443, R 792.10447, R 792.10448, R 792.10501, R 792.10801, R 792.10904, R 792.10907, R 792.10909, R 792.11001, R 792.11002, R 792.11003, R 792.11004, R 792.11005, R 792.11006, R 792.11007, R 792.11008, R 792.11010, R 792.11011, R 792.11012, R 792.11013, R 792.11014, R 792.11015, R 792.11018, R 792.11019, R 792.11020, R 792.11023, R 792.11024, R 792.11025, R 792.11026, R 792.11027, R 792.11102, R 792.11201, R 792.11202, R 792.11204, R 792.11205, R 792.11401, R 792.11402, R 792.11403, R 792.11405, R 792.11406, R 792.11407, R 792.11409, R 792.11410, R 792.11411, R 792.11412, R 792.11413, R 792.11414, R 792.11415, R 792.11416, R 792.11501, R 792.11601, R 792.11609 and R 792.11903 of the Michigan Administrative Code are amended, R 792.10245, R 792.10291, R 792.10293, R 792.10295, R 792.10297, R 792.10307, R 792.10450, R 792.10810, R 792.10905a, R 792.11002a, R 792.11020a, R792.11027a and R 792.11209 are added, and R 792.10414, R 792.10601, R 792.10602, R 792.10603, R 792.10604, R 792.10605, R 792.10606, R 792.10607, R 792.10608, R 792.10609 R 792.11301, R 792.11302, R 792.11303, R 792.11304, R 792.11305, R 792.11306, R 792.11307, R 792.11309, R 792.11310, R 792.11311, R 792.11312, R 792.11313, R

792.11314, R 792.11315, R 792.11316, R 792.11317, R 792.11318, R 792.11319, R 792.11320, R 792.11321, R 792.11417, R 792.11418, R 792.11419, R 792.11420, R 792.11421, R 792.11422, R 792.11423, R 792.11424, R 792.11425, R 792.11426, R 792.11427, R 792.11428, R 792.11429, R 792.11430, R 792.11431, R 792.11432 and R 792.11433 are rescinded, as follows:

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R 792.10101 Scope.

Rule 101. (1) These rules govern practice and procedure in administrative hearings conducted by the Michigan administrative hearing system under Executive Reorganization Order No. 2005-1, MCL 445.2021, Executive Reorganization Order No. 2011-4, MCL 445.2030, and Executive Reorganization Order No. 2011-6, MCL 445.2032 **and the Michigan office of administrative hearings and rules under Executive Reorganization Order No. 2019-6, MCL 324.99923 and Executive Reorganization Order No. 2019-13**.

(2) The rules in part 1 apply to all administrative hearings conducted by the hearing system, except hearings specifically exempted under MCL 445.2021, MCL 445.2030, and MCL 445.2032, and subject to prevailing practices and procedures established by state and federal statutes and the rules for specific types of hearings contained in parts 2, 3, and 5 to 19 of the rules.

(3) The rules in this part do not govern part 4 proceedings before the Michigan public service commission, except R 792.10106(2), (3), (4), (5), (6), and (7), provisions for disqualification and recusal of administrative law judges.

(4) The rules in this part do not govern proceedings before the employment relations commission, except R 792.10106(2), (3), (4), (5), (6), and (7), provisions for disqualification and recusal of administrative law judges.

R 792.10103 Definitions.

Rule 103. For purposes of these rules, the words and phrases defined in this rule have the meanings ascribed to them.

(a) "Act" means 1969 PA 306, MCL 24.201 to 24.328, also known as the administrative procedures act of 1969.

(b) "Administrative law judge" means any person assigned by the hearing system to preside over and hear a contested case or other matter assigned, including, but not limited to, tribunal member, hearing officer, presiding officer, referee, and magistrate.

(c) "Adjournment" means a postponement of a hearing to a later date.

(d) "Administrator" means the person, commission, or board with final decision making authority in a contested case, other than an administrative law judge or a tribunal member.

(e) "Agency" means a bureau, division, section, unit, board, commission, trustee, authority, office, or organization within a state department, created by the constitution, statute, or department action. Agency does not include an administrative unit within the legislative or judicial branches of state government, the governor's office, a unit having direct governing control over an institution of higher education, the state civil service commission, or an association of insurers or nonprofit organization of insurer members created under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(f) "Authorized representative" means a person, other than an attorney, representing a party in a proceeding.

(g) "Contested case" means a proceeding or evidentiary hearing in which a determination of the legal rights, duties, or privileges of a named party is made after an opportunity for a hearing.

(h) "Continuance" means a resumption of a hearing at a later date under these rules.

(i) "Date of receipt" means the date on which the hearing system receives a filing.

(j) "Department" means the state department of licensing and regulatory affairs, unless otherwise specified as a separate constitutionally created state department.

(k) "Hearing system" means the Michigan administrative hearing system created under the authority of Executive Reorganization Order No. 2005-1, MCL 445.2021 **and the Michigan office of administrative hearings and rules created under the authority of Executive Reorganization Order No. 2019-6, MCL 324.99923**.

(l) "Person" means an individual, partnership, corporation, association, municipality, agency, or any other entity.

(m) "Petitioner" means a person who files a request for a hearing.

(n) "Referring authority" means a court, state, or local political subdivision including, but not limited to, a department, agency, bureau, tribunal, mayor, city council, township supervisor, township board, village manager, or village board.

(o) "Respondent" means a person against whom a proceeding is commenced.

R 792.10104 Computation of time.

Rule 104. (1) In computing any period of time prescribed or allowed by these rules, the time in which an act is to be done shall be computed by excluding the first day, and including the last, unless the last day is a Saturday, Sunday, or state legal holiday, in which case the period will run until the end of the next day following the Saturday, Sunday, or state legal holiday.

(2) Unless otherwise specified by the administrative law judge, rule, or statute, the date of receipt of a filing by the hearing system shall be the date used to determine whether a pleading or other paper has been timely filed with the hearing system.

(3) Except where otherwise specified, a period of time in these rules means calendar days, not business days.

(4) To be timely, a filing must be submitted to the hearings system not later than the last minute of the day of the applicable deadline as provided in these rules.

R 792.10106 Administrative law judge; disqualification and recusal; substitution; communications.

Rule 106. (1) The administrative law judge shall exercise the following powers when appropriate:

(a) Conduct a full, fair, and impartial hearing.

(b) Take action to avoid unnecessary delay in the disposition of proceedings.

(c) Regulate the course of the hearing and maintain proper decorum. An administrative law judge may exercise discretion with regard to the exclusion of parties, their attorneys or authorized representatives or other persons, and may adjourn hearings when necessary to avoid undue disruption of the proceedings.

(d) Administer oaths and affirmations.

(e) Provide for the taking of testimony by deposition.

(f) Rule upon offers of proof.

(g) Rule upon motions and examine witnesses.

(h) Limit repetitious testimony and time for presentations.

(i) Set the time and place for continued hearings and fix the time for the filing of briefs and other documents.

(j) Direct the parties to appear, or confer, or both, to consider clarification of issues, stipulations of facts, stipulations of law, settlement, and other related matters.

(k) Require the parties to submit **proposed** prehearing orders and legal memorandum.

(l) Examine witnesses as deemed necessary by the administrative law judge to complete a record or address a statutory element.

(m) Grant applications for subpoenas and subpoena witnesses and documents to the extent authorized by statute.

(n) Issue proposed orders, proposals for decision, and final orders and take any other appropriate action authorized by law.

(o) On motion, or on an administrative law judge's own initiative, adjourn hearings, except where statutory provisions limit adjournment authority.

(2) An administrative law judge may be recused, or disqualified, from a case based on bias, prejudice, interest, or any other cause provided for in this rule.

(3) An administrative law judge may be recused in any proceeding in which the impartiality of the administrative law judge might reasonably be questioned, including but not limited to, instances in which any of the following exist:

(a) The administrative law judge has a personal bias or prejudice concerning a party, a party's authorized representative, or a party's attorney.

(b) The administrative law judge has personal knowledge of disputed evidentiary facts concerning the proceeding.

(c) The administrative law judge served as an attorney in the matter in controversy.

(d) An attorney with whom the administrative law judge previously practiced law serves as the attorney in the matter in controversy.

(e) The administrative law judge has been a material witness concerning the matter in controversy.

(f) An administrative law judge shall voluntarily disclose to the parties any known conditions listed in subdivisions (a) to (e) of this subrule.

(4) An administrative law judge who would otherwise be recused by the terms of this rule may disclose on the record the basis of disqualification and may ask the parties and their attorneys to consider, out of his or her presence, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties agree that the administrative law judge should not be disqualified, the administrative law judge may preside over the proceeding. The agreement shall be incorporated into the hearing record.

(5) Any party seeking to disqualify an administrative law judge shall move for the disqualification promptly after receipt of notice indicating that the administrative law judge will preside or upon discovering facts establishing grounds for disqualification, whichever is later. A motion for recusal shall be made in writing and shall be accompanied by an affidavit setting forth definite and specific allegations that demonstrate the facts upon which the motion for disqualification is based.

(6) If the challenged administrative law judge denies the motion for disqualification, a party may move for the motion to be decided by a supervising administrative law judge.

(7) If an administrative law judge is disqualified, incapacitated, deceased, otherwise removed from, unable to continue a hearing, or to issue a proposal for decision or final order as assigned, another administrative law judge shall be assigned to continue the case by the hearing system director or his or her designee. To avoid substantial prejudice or to enable the administrative law judge to render a decision, the newly assigned administrative

law judge may order a rehearing on any part of the contested case. This rule applies whether the substitution occurs before or after the administrative record is closed.

(8) Once a case has been referred to the hearing system, no person shall communicate with the assigned administrative law judge relating to the merits of the case without the knowledge and consent of all other parties to the matter, except as follows:

(a) The administrative law judge may communicate with another administrative law judge relating to the merits of cases at any time or the hearing system staff as provided by~~, 1969 PA 306,~~ MCL 24.271 to 24.287.

(b) The administrative law judge may, when circumstances require, communicate with parties, attorneys, or authorized representatives for scheduling, or other administrative purposes that do not deal with substantive matters or issues on the merits, provided that the administrative law judge reasonably believes that no party will gain procedural or tactical advantage as a result of the communication. The administrative law judge shall make provision to promptly notify all other parties of the substance of the communication and allow an opportunity to respond.

(9) If an administrative law judge receives a communication prohibited by this rule, the administrative law judge shall promptly notify all parties, attorneys or authorized representatives of the receipt of such communication and its content.

(10) The most current American Bar Association A Model Code of Judicial Conduct for State Administrative Law Judges may be referenced, as applicable, in proceedings conducted under these rules. The code is available from the American Bar Association's website at https://www.americanbar.org/content/dam/aba/administrative/administrative_law_judiciary/2018-model-code-statealj.authcheckdam.pdf at no cost. A single hard copy of the code is available free of charge from the American Bar Association at 321 North Clark Street, Chicago, Illinois 60654.

R 792.10107 Attorneys and authorized representation; ~~misconduct;~~ withdrawal and substitution.

Rule 107. (1) A party may appear in person, by an attorney or by an authorized representative where permitted by statute or rule. To appear on behalf of a party, an attorney or authorized representative shall file a notice of appearance. A pleading, motion, or other document signed and filed by an attorney or authorized representative on behalf of a client is deemed the appearance of the attorney or authorized representative. An appearance by an attorney or authorized representative is an appearance by his or her firm or office. After a notice of appearance has been filed or after an appearance is made on the record, service of all papers in a proceeding shall be made upon the person whose name appears on the notice of appearance, at the address indicated on the notice of hearing, and shall be effective as service on the party represented.

(2) An attorney or authorized representative who has entered an appearance may withdraw from the case, or be substituted for another attorney, only by order of the administrative law judge. Timely notice of withdrawal or substitution shall be provided to all parties, their attorneys or authorized representatives, and the administrative law judge.

R 792.10109 Filing.

Rule 109. ~~(1) Unless authorized to be filed electronically using an electronic filing system, all filings shall be on 8 ½ x 11 inch paper.~~

(1) Documents and pleadings may be filed in a hearing system proceeding by mailing, personal delivery, facsimile, or electronically using a hearing system-approved electronic filing system, if provided.

(2) All filings must be with 12-point font and on 8½ x 11 inch paper, unless filed electronically using a hearing system-approved electronic filing system.

~~(2)~~**(3)** Documents **and pleadings filed by mail, personal delivery, or facsimile and** received by the hearing system after 5 p.m. eastern standard time are considered filed on the following business day. **Documents submitted using a hearing system-approved electronic filing system are considered filed on the same business day if filed by 11:59 p.m.**

~~(3)~~**(4)** Submission by facsimile may be allowed, under all of the following provisions:

(a) A cover sheet that includes the following information should accompany every transmission:

(i) Case name.

(ii) Case number.

(iii) Document title.

(iv) Name, telephone number, and facsimile number of sender.

(b) A facsimile consisting of more than 20 pages will not be accepted.

(c) When a party files by facsimile, the party shall then immediately send a facsimile copy of the filing to all other parties named in the case caption, when a facsimile number is available. The party shall then serve notice to all other known parties pursuant to the notice requirements of these rules.

(5) A required signature means a written signature or an electronic signature as defined as follows:

(a) An electronic signature means an electronic symbol attached to or logically associated with a record and executed or adopted by a person with the intent to sign the document or pleading.

(b) An electronic signature may be a graphic representation of the signature.

(c) The following form is acceptable: "/s/ John Smith," "/s/ John Smith, Attorney," or "/s/ John Smith, Authorized Representative."

~~(4)~~**(6)** ~~Filings~~ **Documents and pleadings** shall not be accepted by e-mail unless specifically authorized by the administrative law judge, **administrative law manager,** or pursuant to an order issued by the executive director of the hearing system.

R 792.10110 Service of documents and other pleadings; manner of service; date of service; statement or proof of service.

Rule 110. (1) A party shall serve all documents and pleadings filed in a hearing system proceeding on all other parties. Unless otherwise directed by the administrative law judge, "parties" are the persons named in the case caption. If an appearance has been filed by an attorney or authorized representative of a party, documents and pleadings shall be served on the attorney of record or authorized representative.

(2) ~~Service on a party may be completed electronically on request of, or with permission of, the party receiving the documents.~~ **Service between the parties may be completed electronically if the parties agree to service by email, subject to all of the following:**

(a) The agreement for service by e-mail shall set forth the e-mail addresses of the parties or attorneys that agree to e-mail service.

(b) Parties and attorneys who have agreed to service by e-mail under this subrule shall immediately notify all other parties if the party's or attorney's email address changes.

(c) Documents served by e-mail must be in PDF format or other format that prevents the alteration of the document contents.

(d) An e-mail transmission sent after 4:30 p.m. eastern standard time shall be deemed to be served on the next day that is not a Saturday, Sunday or state holiday.

(e) The parties are not required to file a copy of the email service agreement, as provided by rule 2.107 of the Michigan court rules, unless a dispute arises as to service by email.

(f) The e-mail sender shall maintain an archived record of sent items that shall not be purged until the conclusion of the contested proceeding before the hearing system, including the disposition of all appeals.

(3) ~~Service, other than electronic, may be completed by mail, facsimile, or commercial delivery service or by leaving a copy of the document at the residence, principal office, or place of business of the person or agency required to be served.~~ **The hearing system may serve documents on the parties, the parties' attorney, or the parties' authorized representative by "mailing a copy" or by e-mail at the e-mail address on file.**

(4) ~~When service of any document or pleading is completed by mail or commercial delivery service, the date of service is the date of deposit with the United States post office, inter-departmental mail delivery system, or other carrier.~~ **"Mailing a copy" as used in this rule means enclosing documents in a sealed envelope addressed to the person to be served and placing it into an intra-departmental mail delivery system or depositing the sealed envelope with first-class postage fully prepaid in the United States mail, by facsimile, or other commercial delivery service or by leaving a copy of the document at the residence, principal office, or place of business of the person or agency required to be served.**

(5) **When service of any document or pleading is completed by mail or commercial delivery service, the date of service is the date of deposit with the United States post office, inter-departmental mail delivery system, or other carrier.**

~~(5)~~**(6)** When service of any document or pleading is completed by hand, electronically, or by any other method authorized by these rules, the date of service is the date of receipt as indicated by a date stamp or other verifiable date on the document or pleading.

~~(6)~~**(7)** The person or party serving documents on other parties pursuant to this rule shall file with the hearing system a written statement of service stating the method or manner of service, the identity of the server, the names of the parties served, and the date and place of service. When service is completed electronically, the statement of service shall also state the e-mail addresses of the sender and the recipient. Failure to timely file the statement of service will not affect the validity of service.

~~(7)~~**(8)** If a question concerning proper service is raised, the person or party serving the documents shall submit a proof of service. When service is made by mail, the return post office receipt shall be proof of service. When service is made by private delivery service, the receipt showing delivery shall be sufficient proof of service. When service is made in any other manner authorized by these rules, verified proof of service shall be made by filing

an affidavit of the person or party serving the documents. Disputes with respect to proper service will be resolved by the administrative law judge assigned to the matter.

~~(8)~~**(9)** The administrative law judge assigned by the hearing system may decline to consider any document or pleading not served pursuant to these rules.

~~(9) Mailing a copy under this rule means enclosing it in a sealed envelope addressed to the person to be served and placing it into an intra-departmental mail delivery system or depositing the sealed envelope with first class postage fully prepaid in the United States mail or other commercial delivery service.~~

R 792.10111 Notice of hearing.

Rule 111. If the notice of hearing is issued by the hearing system, the notice shall contain, at a minimum, all of the following:

(a) The address and phone number, if available, of the hearing location.

(b) A statement of the date, hour, place, and nature of the hearing.

(c) A statement that all hearings shall be conducted in a barrier-free location and in compliance with the americans with disabilities act provisions that states the following: "If accessibility is requested (i.e. braille, large print, electronic or audio reader), information which is to be made accessible must be submitted to the hearing system at least 14 business days before the hearing. If the hearing system is unable to accomplish the conversion prior to the date of hearing, an adjournment shall be granted. If a party fails to provide information for conversion pursuant to this rule, the administrative law judge has discretion to deny adjournment."

(d) A statement of the legal authority and jurisdiction under which the hearing is being held.

(e) The action intended by the agency, if any.

(f) A statement of the issues or subject of the hearing. On request, the administrative law judge may require the agency or a party to furnish a more definite and detailed statement of the issues.

(g) A citation to the ~~Michigan administrative~~ hearing system administrative hearing rules.

R 792.10114 Prehearing conferences.

Rule 114. (1) The administrative law judge may hold a prehearing conference to resolve matters prior to the hearing.

(2) A prehearing conference may be convened to address matters including, but not limited to, any of the following:

(a) Issuance of subpoenas.

(b) Factual and legal issues.

(c) Stipulations.

(d) Requests for official notice.

(e) Identification and exchange of documentary evidence.

(f) Admission of evidence.

(g) Identification and qualification of witnesses.

(h) Motions.

(i) Order of presentation.

(j) Scheduling.

(k) Alternative dispute resolution.

(l) Position statements.

(m) Settlement.

(n) Any other matter that will promote the orderly and prompt conduct of the hearing.

(3) At the discretion of the administrative law judge, all or part of a prehearing conference may be recorded.

(4) Prehearing conferences may be conducted in person, by telephone, by videoconference, or other electronic means at the discretion of the administrative law judge.

(5) When a prehearing conference has been held, the administrative law judge ~~shall~~ **may** issue a prehearing order which states the actions taken or to be taken with regard to any matter addressed at the prehearing conference.

(6) If a prehearing conference is not held, the administrative law judge may issue a prehearing order to regulate the conduct of proceedings.

(7) If a party fails to appear for a prehearing conference after proper notice, the administrative law judge may proceed with the conference in the absence of that party.

(8) A party who fails to attend a prehearing conference is subject to any procedural agreement reached, and any order issued, with respect to matters addressed at the conference.

R 792.10115 Motion practice.

Rule 115. (1) All requests for action addressed to the administrative law judge, other than during a hearing, shall be made in writing. Written requests for action shall state specific grounds and describe the action or order sought. A copy of all written motions or requests for action shall be served pursuant to these rules.

(2) All motions shall be filed at least 14 days prior to the date set for hearing unless other scheduling provisions prevent compliance with this timeline or the need for the motion could not reasonably have been foreseen 14 days prior to hearing.

(3) A response to a motion may be filed within 7 days after service of the written motion unless otherwise ordered by the administrative law judge or unless other scheduling provisions prevent compliance with this timeline. Either party may request an expedited ruling.

(4) All motions and responses shall include citations of supporting authority and, if germane, supporting affidavits or citations to evidentiary materials of record.

(5) The administrative law judge has discretion to require oral argument on a motion or allow or deny oral argument based on a request from a party.

(6) A request for oral argument on a motion shall be made in writing.

(7) Notice of oral argument on a motion shall be given prior to the date set for hearing. At the discretion of the administrative law judge, a hearing on a motion may be conducted in whole or in part by telephone. The administrative law judge shall rule upon motions within a reasonable time~~.~~ **or hold the motion in abeyance at the request of the parties or in his or her discretion.**

(8) Multiple motions may be consolidated for oral argument.

(9) A party may withdraw a motion for oral argument at any time.

(10) Any relief granted by the administrative law judge in response to a motion should be incorporated in a written order, the proposal for decision, or the final order.

R 792.10119 Location.

Rule 119. (1) The hearing system may schedule a hearing at any location unless location is dictated by statute or controlling rules.

(2) A party may **request a** ~~file a motion asserting good cause for~~ change of venue**, which may be granted at the discretion of the administrative law judge**.

R 792.10124 Presentation.

Rule 124. (1) A party may make or waive a closing statement. If a party elects to make a closing statement, the administrative law judge may order closing arguments to be submitted in writing and may require written proposed findings of fact and conclusions of law.

(2) Unless otherwise directed by the administrative law judge, the party having the burden of proof shall go forward first with presentation of evidence. A party may submit rebuttal evidence.

(3) Except as otherwise provided for by statute or rule, the complaining party has the burden of proving, by a preponderance of the evidence, the grounds that exist for the imposition of a sanction.

R 792.10126 Evidence to be entered on record; documentary evidence.

Rule 126. (1) Evidence in a proceeding shall be offered and made a part of the record if admitted by the administrative law judge. Other factual information shall not be used as the basis of the decision of the administrative law judge, unless parties are provided notice. Documentary evidence may be received in the form of a copy or excerpt, if the original is not readily available. **Documentary evidence must be received by the administrative law judge and a copy sent to the opposing party no later than 7 days prior to the hearing, unless the notice of hearing is issued less than 30 days prior to the hearing. If the notice of hearing is issued less than 30 days prior to the hearing, or otherwise upon good cause shown, documentary evidence must be received by the administrative law judge and a copy provided to the opposing party no later than 1 business day prior to the scheduled hearing.** Upon timely request, a party shall be given an opportunity to compare a copy with the original, when available. Documentary evidence may be incorporated by reference if the materials are available for examination by the parties.

(2) If materials and exhibits offered, but not admitted, are made part of the record for purposes of appeal, they shall be clearly marked by the administrative law judge as "rejected".

(3) Exhibits that are rejected as duplicates of material already contained in the file or record, shall be returned to the party offering the exhibits, and shall not be included in the record on appeal.

(4) Exhibits introduced into evidence, but later withdrawn, shall not be considered part of the record on appeal.

R 792.10129 Summary disposition.

Rule 129. (1) A party may make a motion for summary disposition of all or part of a proceeding. When an administrative law judge does not have final decision authority, he

or she may issue a proposal for decision granting summary disposition on all or part of a proceeding if he or she determines that that any of the following exists:

(a) There is no genuine issue of material fact.

(b) There is a failure to state a claim for which relief may be granted.

(c) There is a lack of jurisdiction or standing.

(2) When an administrative law judge does not have final decision authority, he or she may issue an order denying a motion for summary disposition without issuing a proposal for decision, because it does not constitute a final disposition.

~~(2)~~**(3)** If the administrative law judge has final decision authority, he or she may determine the motion for summary decision without first issuing a proposal for decision.

~~(3)~~**(4)** If the motion for summary disposition is denied, or if the decision on the motion does not dispose of the entire action, then the action shall proceed to hearing.

~~(4)~~**(5)** In hearings held under the occupational code, 1980 PA 229, MCL 339.101 to 339.2919, the administrative law judge shall not issue an order of summary disposition.

~~(5) In hearings held under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, the administrative law judge or magistrate shall not issue an order of summary disposition pursuant to subrule (1)(a) of this rule.~~

R 792.10131 Proposals for decision.

Rule 131. (1) When the final decision is made by a person who did not conduct the hearing or review the record, the decision, if adverse to a party other than the agency itself, shall not be made until a proposal for decision is served on the parties and an opportunity is given to each party adversely affected to file exceptions and present written arguments to the person who will make the final decision. On review of a proposal for decision, the final decision authority shall have all of the powers which it would have if it had presided at the hearing.

(2) The proposal for decision shall be prepared by a person who conducted the hearing or who has read the complete record. A proposal for decision shall contain findings of fact and conclusions of law and an analysis or rationale for conclusions.

(3) A decision shall become a final decision in the absence of exceptions or review by an entity with final decision authority.

(4) Where there is no statute, administrative rule, or delegation of authority for the administrative law judge to make a final decision, the administrative law judge who conducted the hearing shall prepare a proposal for decision.

R 792.10134 Default judgments.

Rule 134. (1) If a party fails to attend or participate in a scheduled proceeding after a properly served notice, the administrative law judge may conduct the proceedings without participation of the absent party. **At a hearing,** ~~T~~**t**he administrative law judge may issue a default order or other dispositive order which shall state the grounds for the order.

(2) Within 7 days after service of a default order, the party against whom it was entered may file a written motion requesting the order be vacated. If the party demonstrates good cause for failing to attend a hearing or failing to comply with an order, the administrative law judge may reschedule, rehear, or otherwise reconsider the matter as required to serve the interests of justice and the orderly and prompt conduct of proceedings.

PART 2. TAX TRIBUNAL

SUBPART A. GENERAL PROVISIONS.

R 792.10203 Definitions.

Rule 203. As used in these rules:

(a) "Tax tribunal act" means 1973 PA 186, MCL 205.701 to 205.779.

(b) ~~"Clerk" means the chief clerk or a deputy clerk of the tribunal.~~ **"Costs" means costs actually incurred in litigating a contested case before the tribunal including attorney fees. See R 792.10209.**

(c) "Default hearing" means a hearing at which the defaulted party is precluded from presenting any testimony, offering any evidence, and examining the other party's witnesses. See R 792.10231.

~~(c)~~**(d)** "Entire tribunal" means the hearing division of the tribunal other than the small claims division.

(e) "Mediation" means a process in which a neutral third party facilitates communication between parties, assists in identifying issues, and helps explore solutions to promote a mutually acceptable settlement of a contested case before the tribunal. See R 792.10291 to R 792.10297.

~~(d)~~**(f)** "Non-property tax appeal" means any contested case, other than a property tax appeal, over which the tribunal has jurisdiction.

~~(e)~~**(g)** "Property tax appeal" means any contested case relating to real and personal property assessments, valuations, rates, ~~special assessments~~, refunds, allocation, or equalization**,** or any other contested case brought before the tribunal under the state's property tax laws**, and special assessments**.

(h) "Rebuttal evidence" means evidence limited to refuting, contradicting, or explaining evidence submitted by an opposing party or parties.

~~(f)~~**(i)** "Referee" means a contractual small claims hearing referee whose powers are limited to those provided by the tribunal.

~~(g)~~ **(j)** "Small claims division" means the residential property and small claims division created by section 61 of the tax tribunal act, MCL 205.761.

(k) "Valuation disclosure" means documentary or other tangible evidence in a property tax contested case that a party relies upon in support of the party's contention as to the true cash value of the subject property or any portion thereof and contains the party's value conclusions and data, valuation methodology, analysis, or reasoning.

~~(h)~~**(l)** The terms defined in the tax tribunal act and in 1893 PA 206, MCL 211.1 to 211.155, have the same meanings when used in these rules.

R 792.10205 Payment of fees or charges.

Rule 205. Tribunal fees or charges shall be paid separately for each contested case in cash or by check, money order, or other draft payable to the order of "State of Michigan." Payments shall be mailed or delivered to the ~~clerk of the~~ tribunal ~~at the tribunal's office~~. Tribunal fees or charges may also be paid separately for each ~~proceeding~~ **contested case** ~~electronically~~ **by credit card through the tribunal's e-filing system**~~, if provided for by the tribunal~~.

R 792.10207 Records; removal; public access; electronic signatures.

Rule 207. (1) ~~The~~ **If an** original paper record **is maintained** for ~~each~~ **a** contested case**, that paper record**, including all pleadings and documents filed and exhibits offered in the contested case, shall not be taken from a hearing room or the tribunal's office except as authorized by the tribunal.

(2) The printed copy of any pleading, motion, document, or exhibit submitted through the tribunal's e-filing system shall be a paper representation of that electronic pleading, motion, document, or exhibit, and shall be included in the ~~original~~ paper record for that contested case**, if a paper record for that case is maintained,** in the order in which the electronic pleading, motion, document, or exhibit was received ~~through the tribunal's e-filing system~~, as provided in section 7 of 2000 PA 305, MCL 450.837.

(3) After the time for appeal has expired, the ~~clerk~~ **tribunal** shall make a party's paper exhibits available for return to the party. If a paper exhibit is not claimed within 90 days after the paper exhibit is made available for return, then the ~~clerk~~ **tribunal** may dispose of the paper exhibit at ~~his or her~~ **its** discretion.

(4) Except upon order of the tribunal for good cause shown or as otherwise provided by law, all public records of the tribunal are available for inspection. ~~Copies may be obtained from the clerk upon payment of the charge provided in R 792.10217 and R 792.10267.~~

(5) Pleadings and documents submitted through the tribunal's e-filing system shall be "signed" by typing "/s/ John Smith Attorney," "/s/ John Smith Authorized Representative," or "/s/ John Smith," if a party is appearing on his or her own behalf on the signature line of the pleading or document, or by applying a graphic representation of the signature to the pleading or document.

R 792.10209 Costs.

Rule 209. (1) The tribunal may, upon motion or its own initiative, award costs in a contested case, as provided by section 52 of the tax tribunal act, MCL 205.752. **See also R 792.10203(b).**

(2) If costs are awarded, a bill of costs shall be filed and served ~~within 21 days of the entry of the order awarding costs, unless otherwise provided~~ **as ordered** by the tribunal. A party may file a response objecting to the bill of costs or any item in the bill within ~~14 days after service of the copy of the bill, unless otherwise provided~~ **the time period ordered** by the tribunal. Failure to file an objection to the bill of costs within the applicable time period constitutes a waiver of any right to object to the bill.

(3) The bill of costs shall state separately each item claimed and the amount claimed, and shall be verified by affidavit of the party or the party's attorney or authorized representative. The affidavit shall state that each item is correct and was necessarily incurred.

SUBPART B. MATTERS BEFORE ENTIRE TRIBUNAL~~.~~

R 792.10217 Fees and charges.

Rule 217. The following fees shall be paid to the ~~clerk~~ **tribunal** ~~in all entire tribunal proceedings~~ upon **the** filing **of all petitions, motions, or stipulations for entry of a consent judgment in each contested case**, unless otherwise ~~provided~~ **ordered** by the tribunal:

(a) The fee for filing property tax appeal petitions: Filing fee

(i) Allocation, apportionment, and equalization ~~appeals~~ **contested cases**....$250.00.

(ii) Valuation ~~appeals~~ **contested cases**.

Value in contention*	Filing fee**
$100,000 or less	$250.00.
$100,000.01 to $500,000	$400.00.
More than $500,000…	$600.00.

*Value in contention is the difference between the assessed value as established by the board of review and the state equalized value contended by the petitioner or the difference between the taxable value as established by the board of review and the taxable value contended by the petitioner, whichever is greater.

**The filing fee for multiple, contiguous parcels owned by the same person is the filing fee for the parcel that has the largest value in contention, plus $25.00 for each additional parcel, not to exceed a total filing fee of $2,000.00.

(b) The fee for filing a motion to amend a property tax appeal petition to add a subsequent year assessment is equal to 50% of the fee provided in subdivision (a)(ii) of this rule for the assessment to be added.

(c) The fee for filing a property tax appeal petition contesting a special assessment or a non-property tax appeal petition is $250.00.

(d) The fee for filing a property tax appeal petition contesting the classification of property is $150.00.

(e) The fee for filing a stipulation for entry of consent judgment ~~instead of a property tax appeal or non-property tax appeal petition~~ is $50.00.

~~(f) If a petition has been filed, the fee for filing a stipulation for entry of consent judgment is $50.00.~~

~~(g)~~**(f)** The fee for filing a motion for immediate consideration or a motion for summary disposition or partial summary disposition is $100.00.

~~(h)~~**(g)** The fee for filing a motion to withdraw a petition **or motion requesting a telephonic prehearing conference for the moving party or parties** is $0.00.

~~(i)~~**(h)** The fee for the filing of a stipulation or motion by an attorney or authorized representative who has entered an appearance in a proceeding to withdraw from or be substituted for in that proceeding is $0.00.

(i) The fee for the filing of a stipulation agreeing to participate in mediation is $0.00.

(j) The fee for the filing of all other motions is $50.00.

(k) The fee for the filing of multiple motions in a single document is the largest fee that would have been charged if each motion had been filed separately.

~~(l) The fee for the certification of the record on appeal to the court of appeals is $100.00.~~

~~(m) The fee for copies of pleadings and other documents is $ .50/page.~~

R 792.10219 Commencement of contested cases; motions to amend to add a subsequent tax year; election of small claims division and entire tribunal; other filings; **notice of no action**.

Rule 219. (1) A contested case is commenced by mailing**,** ~~or~~ delivering**, or submitting through the tribunal's e-filing system** a petition ~~to the tribunal~~ with the appropriate filing fee within the time periods prescribed by statute. ~~A contested case may also be commenced with the tribunal by electronic submission of a petition within the time periods prescribed by statute, if provided for by the tribunal.~~

(2) A motion to amend a property tax appeal petition to include an assessment in a subsequent tax year is considered to be filed within the time periods prescribed by statute if it has been mailed, delivered, or submitted ~~electronically~~ **through the tribunal's e-filing system** ~~to the tribunal~~ with appropriate filing fee on or before the expiration of the applicable time period~~, unless otherwise provided by the tribunal~~. **See also R 792.10221(3).**

(3) A petitioner, who files a defective petition and the tribunal is unable to determine the division of the tribunal in which the contested case is being filed, will be presumed to have elected to have the matter heard in the small claims division. If a motion to transfer is filed after the scheduling of the hearing and the motion is granted by the tribunal, the ~~petitioner~~ **moving party** shall pay all entire tribunal filing fees and any **reasonable** costs **that the tribunal determines may be** incurred by the ~~respondent~~ **opposing party or parties** as a **direct** result of the transfer~~, unless otherwise provided by the tribunal~~.

(4) Pleadings, motions, and documents are considered filed upon mailing or delivery, as provided by rule 2.107 of the Michigan court rules. Pleadings, motions, and documents may also be submitted through the tribunal's e-filing system~~, if provided for by the tribunal~~. Pleadings, motions, and documents submitted through the tribunal's e-filing system are considered filed upon successful submission of the pleading, motion, or document. Unsuccessful submissions through the tribunal's e-filing system due to a system-wide outage are considered timely if filed on the following business day.

(5) Submissions by mail are considered filed on the date indicated by the U.S. postal service postmark on the envelope containing the submissions. **If the U.S. postal service postmark is absent or unreadable as determined by the tribunal, the submission will be considered filed on the date the submission was received by the tribunal.** Submissions by commercial delivery service are considered filed on the date the submissions were given to the commercial service for delivery to the tribunal as indicated by the receipt date on the package containing the submissions. Submissions by personal service are considered filed on the date the submissions were received. Submissions through the tribunal's e-filing system by 11:59 p.m. on a business day are considered filed on that business day. Submissions on a Saturday, a Sunday, or a holiday are considered filed on the following business day, as provided by section 35a of the tax tribunal act, MCL 205.735a.

(6) If a motion is not accompanied by the required filing fee, the tribunal shall issue a notice of no action. If the required filing fee is paid within 14 days of the issuance of

the notice of no action, action shall be taken on the motion based on the date that the motion was originally submitted to the tribunal. If the required filing fee is not paid within 14 days of the issuance of the notice of no action, no action shall be taken on the motion.

(7) If a motion or document, other than a petition, is not accompanied by a required proof of service, the tribunal shall issue a notice of no action. If the required proof of service is filed within 14 days of the issuance of the notice of no action, action shall be taken on the motion or document based on the date that the motion or document was originally submitted to the tribunal. If the required proof of service is not filed within 14 days of the issuance of the notice of no action, no action shall be taken on the motion or document.

R 792.10221 Pleadings; amended ~~and supplemented~~ pleadings; content of pleadings, motions, and documents; service of pleadings, motions, and documents.

Rule 221. (1) ~~An application for review or any other document initiating a contested case is considered to be a petition. See also R 792.10227. A document raising an affirmative defense or allegations in response to a petition is considered to be an answer.~~ The petition and answer are pleadings and no other pleadings shall be allowed, except that an answer may be made to petitions filed by parties who are later substituted for or joined in a contested case. **See also R 792.10227 and R 792.10229. With the exception of amendments to petitions or answers that correct typographical or transposition errors, a** ~~A~~ petition or answer may be amended ~~or supplemented~~ by leave of the tribunal only. With the exception of amendments to include a prior or subsequent tax year assessment in **a** property tax appeal, leave to amend ~~or supplement~~ shall be freely given when justice so requires. Amendments to include a prior or subsequent tax assessment in a property tax appeal must be filed as required by law. See section 35a of the tax tribunal act, MCL 205.735a and section 53a of 1893 PA 206, MCL 211.53a.

(2) An amended petition or amended answer that has been amended to correct typographical or transpositional errors only shall be filed by the date established by the tribunal for the filing and exchange of prehearing statements with proof demonstrating the service of the amended petition or amended answer on the opposing party or parties. If the tribunal determines that the amendment or amendments address more than typographical or transpositional errors, the tribunal shall issue a notice of no action.

(3) An amended petition shall be submitted concurrently with a motion to amend to include a prior or subsequent tax assessment in a property tax appeal. The amended petition shall address petitioner's claim for the prior or subsequent tax assessment proposed for inclusion. See also R 792.10227.

~~(2)~~**(4)** All pleadings and motions filed with the tribunal shall **be redacted by the parties to remove any confidential or sensitive information and** contain all of the following information:

(a) The caption "Michigan Tax Tribunal."

(b) The title of the appeal.

(c) The docket number of the appeal after it is assigned by the tribunal.

(d) A designation showing the nature of the pleading or motion.

~~(3)~~**(5)** All documents, other than pleadings and motions, shall **be redacted by the parties to remove any confidential or sensitive information and** contain both of the following:

(a) The docket number of the appeal after it is assigned by the tribunal.

(b) A designation showing the nature of the document.

~~(4)~~**(6)** ~~The~~ **Unless otherwise ordered by the tribunal, the** petition shall note the docket number assigned by the tribunal and be served as provided for in this rule within 45 days of the issuance of the **docket number, if e-filed, and within 45 days of the issuance of the** notice of docket number, **if not e-filed** ~~unless otherwise provided by the tribunal~~. Failure to serve the petition with noted docket number ~~within 45 days of the issuance of the notice of docket number shall~~ **as required by this subrule or a tribunal order may** result in the dismissal of the contested case~~, unless otherwise provided by the tribunal~~.

~~(5)~~**(7)** The petition with noted docket number, if it is a property tax appeal petition other than a property tax petition contesting a special assessment, shall be served by a petitioner, other than a unit of government, in the following manner:

(a) Mailed by certified mail or delivered by personal service to the following officials at their last known address:

(i) The certified assessor or board of assessors of the unit of government that established the assessment being appealed.

(ii) The city clerk, in the case of cities.

(iii) The township supervisor or clerk, in the case of townships.

(b) Mailed by first-class mail or delivered by personal service to the following officials at their last known address:

(i) The county equalization director for any county affected.

(ii) The county clerk for any county affected.

(iii) The secretary of the local school board.

(iv) The treasurer of the state of Michigan.

~~(6)~~**(8)** The petition with noted docket number, if it is a property tax appeal petition other than a property tax appeal petition contesting a special assessment, shall be served by a petitioner that is a unit of government by certified mail or by personal service on the party or parties-in-interest with respect to the property or properties at issue. The petition shall also be served by first-class mail or by personal service on the following officials at their last known address:

(a) The county equalization director for any county affected.

(b) The county clerk for any county affected.

(c) The secretary of the local school board.

(d) The treasurer of the state of Michigan.

~~(7)~~**(9)** The petition with noted docket number, if it is a property tax appeal petition contesting a special assessment, shall be served by certified mail or by personal service on the clerk of the unit of government, authority, or body levying the special assessment being appealed at the clerk's last known address.

~~(8)~~**(10)** The petition with noted docket number, if it is a non-property tax appeal petition, shall be served by certified mail or by personal service on either of the following officials at their last known address:

(a) The treasurer of the state of Michigan, if the tax was levied by the department of treasury.

(b) The clerk of the local unit of government, if the tax was levied by the local unit of government.

~~(9)~~**(11)** Proof of service shall be submitted within ~~45 days of the issuance of the notice of docket number~~ **the applicable time period established** ~~establishing~~ by either a written acknowledgment **of the** receipt of the petition with noted docket number that is dated and signed by the persons authorized under these rules to receive it or by certification stating the facts of service. Failure to submit the proof of service may result in the dismissal of the contested case. **See R 792.10221(6).**

~~(10)~~**(12)** Answers, motions, and documents filed with the tribunal shall be served concurrently by first-class mail or personal service~~, as provided in R 792.10211 and in rule 2.107 of the Michigan court rules~~ **on all other parties of record unless an attorney or authorized representative has filed an appearance on behalf of those parties and then service shall be made on the attorney or authorized representative**. Answers, motions, and documents filed with the tribunal may also be served ~~electronically~~ by email, if ~~provided for by the tribunal~~ **the parties agree to service by e-mail. The parties are not required to file a copy of the e-mail service agreement, as provided by rule 2.107 of the Michigan court rules, unless a dispute arises as to service by e-mail**.

~~(11)~~**(13)** Proof of service shall be submitted with all answers, motions, and documents establishing by either a written acknowledgment receipt of the answer, motion, or document that is dated and signed by the person authorized under these rules to receive it or by certification stating the facts of service. Failure to submit the proof of service may result in the holding of a party or parties in default, as provided by R 792.10231.

R 792.10223 Appearance and representation; **adding and removing of parties;** amicus curiae.

Rule 223. (1) An attorney or authorized representative may appear on behalf of a party in a contested case by signing the petition or other document initiating the participation of that party in the contested case or by filing an appearance. The tribunal may require an attorney or authorized representative to provide a written statement of authorization signed by the party on whose behalf the attorney or authorized representative is appearing.

(2) If a petition or other document initiating the participation of a party is signed by an attorney or authorized representative, that petition or document shall state the name of the party on whose behalf the attorney or authorized representative is appearing; the attorney or authorized representative's name; the name of their firm, if any; and the firm's mailing and e-mail addresses and telephone number. If there is no firm, the attorney or authorized representative shall state the attorney or authorized representative's mailing and e-mail addresses and telephone number. The attorney or authorized representative shall promptly inform the ~~clerk~~ **tribunal** and all parties or their attorneys or authorized representatives in writing of any change in that information.

(3) An appearance filed by an attorney or authorized representative shall state the name of the party or parties on whose behalf the attorney or authorized representative is appearing; the attorney or authorized representative's name; the name of their firm, if any; and the firm's mailing and e-mail addresses and telephone number or, if there is no firm, the attorney or authorized representative's mailing and e-mail addresses and telephone number. The attorney or authorized representative shall promptly inform the ~~clerk~~

tribunal and all parties or their attorneys or authorized representatives in writing of any change in that information.

(4) An attorney or authorized representative may withdraw from a contested case or be substituted for by stipulation or order of the tribunal. The stipulation shall be signed by the party or parties, the attorney or authorized representative, and the new attorney or authorized representative, if any. If the stipulation is signed by a new attorney or authorized representative, the new attorney or authorized representative shall also submit an appearance, as provided by this rule. If the stipulation is not signed by a new attorney or authorized representative, the stipulation shall indicate the mailing and e-mail addresses for the service of notices, orders, and decisions and the telephone number for contacting that party.

(5) In the absence of an appearance by an attorney or authorized representative, a party is considered to appear for himself, herself, or itself. If a party is appearing for himself, herself, or itself, that party shall promptly inform the ~~clerk~~ **tribunal** and all parties or their attorneys or authorized representatives in writing of any change in that party's mailing and e-mail addresses and telephone number.

(6) Parties may be added or ~~dropped~~ **removed** by order of the tribunal on its own initiative or on motion of any interested person at any stage of the contested case and according to terms that are just.

(7) The tribunal may, upon motion, order a person or, upon motion or its own initiative, order a state or local governmental unit to appear as amicus curiae or in another capacity as the tribunal considers appropriate.

R 792.10225 Motions.

Rule 225. (1) All requests to the tribunal requiring an order in a contested case, including stipulated requests, shall be made by written motion filed with the ~~clerk~~ **tribunal** and accompanied by the appropriate fee, unless otherwise provided by the tribunal. Motions may be amended or supplemented by leave of the tribunal only, and leave to amend or supplement shall be freely given when justice so requires. **See also R 792.10219(6) and (7).**

(2) ~~If the motion is not accompanied by the appropriate fee or the tribunal is unable to determine whether the appropriate fee was paid, the tribunal shall issue a notice of no action. If the appropriate fee is paid within 21 days of the issuance of the notice of no action or as otherwise provided by the tribunal, action shall be taken on the motion. If the appropriate fee is not paid within 21 days of the issuance of the notice of no action or as otherwise provided by the tribunal, the motion shall be re-filed with appropriate filing fee.~~ ~~(3)~~ Motions shall be served concurrently on all other parties of record unless an attorney or authorized representative has filed an appearance on behalf of those parties and then service shall be made on the attorney or authorized representative and proof of service shall be filed with the ~~clerk~~ **tribunal**.

~~(4)~~**(3)** Written ~~opposition~~ **responses** to motions, other than motions for which a motion for immediate consideration has been filed or motions for reconsideration, shall be filed within 21 days after service of the motion, unless otherwise ~~provided~~ **ordered** by the tribunal.

~~(5)~~**(4)** Written ~~opposition~~ **responses** to motions, for which a motion for immediate consideration has been filed, shall be filed within 7 days after service of the motion for

immediate consideration, if the motion for immediate consideration includes a statement verifying that the **moving** party **or parties** ~~filing the motion has notified~~ **have spoken with** all **other** parties ~~of~~ **regarding** the filing of the motion for immediate consideration and indicating whether ~~the~~ **those** parties will be filing a response to the motion or motions for which the motion of immediate consideration ~~was~~ **is being** filed. If the motion for immediate consideration does not include that statement, written opposition to those motions shall be filed within 21 days after service of the motion for immediate consideration, unless otherwise ~~provided~~ **ordered** by the tribunal.

(5) Immediate consideration of a motion for summary disposition is not permitted unless otherwise ordered by the tribunal.

~~(5)~~**(6)** Pleading on motions shall be limited to the motion and a brief in support of the motion and a single response to the motion and a brief in support of the response. A brief in support of a motion or response, if any, shall be filed concurrently with the motion or response.

R 792.10227 Petitions.

Rule 227. (1) A petition shall contain a **clear and concise** statement of facts, without repetition, upon which the petitioner relies in making its claim for relief. The statement shall be made in separately designated paragraphs. The contents of each paragraph shall be limited, as far as practicable, to a statement of a single fact. Each claim shall be stated separately when separation facilitates the clear presentation of the matters set forth. See also R 792.10221.

(2) A petition shall not cover more than 1 assessed parcel of real property, except as follows:

(a) A single petition involving real property may cover more than 1 assessed parcel of real property if the real property is contiguous and within a single assessing unit.

(b) A single petition involving personal property may cover more than 1 assessed parcel of personal property located on the same real property parcel within a single assessing unit.

(c) A single petition involving personal property may cover personal property located on different real property parcels if the property is assessed as 1 assessment and is located within a single assessing unit.

(d) A single petition may include both real and personal property, if the personal property is located on the real property parcel or parcels at issue within a single assessing unit.

(3) Each petition shall contain all of the following information:

(a) The petitioner's name, legal residence or, in the case of a corporation, its principal office or place of business, mailing address, if different than the address for the legal residence or principal place of business, e-mail address, and telephone number.

(b) The name of the opposing party or parties.

(c) A description of the matter in controversy, including the type of tax, the year or years involved, and, in a property tax appeal, all of the following information:

(i) The present use of the property, the use for which the property was designed, and the classification of property.

(ii) Whether the matter involves any of the following:

(A) True cash value.

(B) Taxable value.

(C) Uniformity.

(D) Exemption.

(E) Classification.

(F) A combination of the areas specified in subparagraphs (A) to (E) of this paragraph.

(G) Special assessment.

(H) Non-property taxes, interest, and penalties.

(iii) For multifamily residential property, whether the property is subject to governmental regulatory agreements and a subsidy and the type of subsidy involved.

(d) A statement of the amount or amounts in dispute **and the following**~~, which~~ shall ~~include the following~~ **be included in or submitted concurrently with the petition**, as applicable:

(i) In taxable value contested cases, a statement indicating whether there is a dispute relative to the value of an addition or a loss.

(ii) In non-property tax appeals, a statement of the portion of the tax admitted to be correct, if any~~, and a copy of the assessment or other notice being appealed attached to the petition~~.

~~(e)~~ **(iii)** In true cash value, taxable value, uniformity, exemption, classification, or special assessment contested cases, a statement as to whether the matter in controversy has been protested, the date of the protest and, if applicable, the date of receipt of the disputed tax bill.

~~(f)~~ **(iv)** ~~A clear and concise statement of the facts upon which the petitioner relies, except for facts that the opposing party has the burden of proving.~~ **In special assessment appeals, a statement indicating whether the matter in controversy has been protested at the hearing held to confirm the special assessment roll at issue and the date of the hearing.**

~~(g)~~**(e)** The relief sought.

~~(h)~~**(f)** The signature of the petitioner or petitioner's attorney or authorized representative.

(4) In equalization, allocation, and apportionment contested cases, the petition shall be sworn to and be in compliance with applicable statutes.

R 792.10229 Answers.

Rule 229. (1) The respondent shall have 28 days from the date of service of the petition **with noted docket number** to file an answer or responsive motion. Failure to file an answer or responsive motion within 28 days ~~may~~ **shall** result in the holding of the respondent in default and may**, if the respondent fails to timely cure the default, result in** the conducting of a default hearing, as provided in R 792.10231.

(2) An answer shall contain the signature of the respondent or respondent's attorney or authorized representative.

~~(2)~~**(3)** The answer shall be written to fully advise the petitioner and the tribunal of the nature of the defense **or defenses** and shall contain a specific admission or denial of each material allegation in the petition. If the respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, then the answer shall so state and the statement shall have the effect of a denial. If the respondent intends to qualify or deny only a part of an allegation, then the answer shall specify so much of the allegation as is true and shall qualify or deny only the remainder. In addition, the answer shall contain a clear and concise statement of every ground on which the respondent relies and has the

burden of proof. Paragraphs of the answer shall be designated to correspond to paragraphs of the petition to which they relate.

~~(3)~~**(4)** An answer may assert as many defenses as the respondent may have against a petitioner. A defense is not waived by being joined with 1 or more other defenses. All defenses not asserted in either the answer or by appropriate motion are waived, except for either the following defenses:

(a) Lack of jurisdiction.

(b) Failure to state a claim upon which relief may be granted.

~~(4)~~**(5) For** ~~In a~~ special assessment contested ~~case~~ **cases**, the answer shall specify the statutory authority under which the special assessment district was created **and a copy of the resolution confirming the special assessment roll shall be submitted concurrently with the answer**. **For non-property tax contested cases, a copy of the final assessment or order being appealed shall be submitted concurrently with the answer.**

R 792.10231 Defaults; ~~"default hearing" defined; dismissals~~ **failure to appear**; withdrawals; transfers.

Rule 231. (1) If a party has failed to plead~~, appear,~~ or otherwise proceed as provided by these rules or ~~the~~ **a** tribunal **order**, the tribunal may, upon motion or its own initiative, hold that party in default. A party held in default shall cure the default as provided by the order holding the party in default ~~and, if required, file a motion to set aside the default accompanied by the appropriate fee within 14 days of the entry of the order holding the party in default or as otherwise provided by the tribunal~~. Failure to comply with an order of default may result in the dismissal of the contested case**, if petitioner is held in default and fails to timely cure the default,** or the conducting of a default hearing**, if respondent is held in default and fails to timely cure the default** ~~as provided in this rule~~.

(2) ~~For purposes of this rule, "default hearing" means a hearing at which the defaulted party is precluded from presenting any testimony, submitting any evidence, and examining the other party's witnesses~~ **If a petitioner fails to appear for a scheduled proceeding, other than a prehearing conference or a non-property tax scheduling conference, after a properly served notice of the proceeding, the tribunal shall issue an order holding the petitioner in default and, if the default is not timely cured, may dismiss the contested case. If a petitioner fails to appear for a scheduled prehearing conference or scheduled non-property tax scheduling conference, after a properly served notice of the conference, the tribunal may conduct the conference without the participation of the petitioner and issue an order holding the petitioner in default and, if the default is not timely cured, dismiss the contested case.**

(3) If the respondent fails to appear for a scheduled proceeding, other than a prehearing conference or non-property tax scheduling conference, after a properly served notice of the proceeding, the tribunal shall issue an order holding the respondent in default and, if the default is not timely cured, may conduct a default hearing without the participation of the respondent. **If the respondent fails to appear for a scheduled prehearing conference or scheduled non-property tax scheduling conference, after a properly served notice of the conference, the tribunal may conduct the conference without the participation of the respondent and issue an order holding the respondent in default and, if the default is not timely cured, conduct a default hearing without the participation of respondent.**

~~(3)~~**(4)** A petition may be withdrawn upon motion filed by the petitioner before the answer or first responsive motion has been filed with the tribunal. Once the answer or first responsive motion has been filed, a petition may be withdrawn upon motion filed by petitioner only if the other party or parties do not object to the withdrawal.

~~(4) Failure of a party to properly prosecute the contested case, comply with these rules, or comply with an order of the tribunal is cause for dismissal of the contested case or the conducting of a default hearing for respondent. Upon motion made within 21 days of the entry of the order, an order of dismissal may be set aside by the tribunal for reasons it considers sufficient. See R 792.10225.~~

(5) ~~By stipulation of the parties or by a petitioner's motion and notice to the respondent, the~~ **The** tribunal may**, upon motion,** transfer a ~~matter~~ **contested case properly pending in the entire tribunal** to the small claims division ~~by order~~.

R 792.10233 Applicability of **prehearing and** discovery procedures to equalization, allocation, and apportionment contested cases.

Rule 233. ~~For equalization, allocation, and apportionment contested cases, the~~ **The** prehearing and discovery procedures fixed by R 792.10237 to R 792.10247 do not apply to **equalization, allocation, and apportionment contested cases**, unless otherwise ~~provided~~ **ordered** by the tribunal.

R 792.10237 Valuation disclosure; witness list.

Rule 237. (1) ~~For purposes of this rule and R 792.10255, "valuation disclosure" means documentary or other tangible evidence in a property tax contested case that a party relies upon in support of the party's contention as to the true cash value of the subject property or any portion thereof and contains the party's value conclusions and data, valuation methodology, analysis, or reasoning.~~

~~(2)~~ A party's valuation disclosure in a property tax contested case shall be filed with the tribunal and exchanged with the opposing party as ~~provided~~ **ordered** by the tribunal. However, a party may, if the party has reason to believe that the opposing party **or parties** may not exchange a valuation disclosure as ~~provided~~ **ordered** by the tribunal, submit a valuation disclosure to the tribunal together with a motion and appropriate filing fee requesting the tribunal's leave to withhold the valuation disclosure until the opposing party **or parties** exchanges a valuation disclosure with that party.

~~(3)~~**(2)** A party shall submit to the tribunal and the other party or parties a prehearing statement, as required by R 792.10247. The prehearing statement shall provide the other party or parties and the tribunal with the name and address of any person who may testify and with a general summary of the subject area of the testimony. A person who is not disclosed as a witness shall not be permitted to give testimony, unless, for good cause shown, the tribunal permits the testimony to be taken.

R 792.10245 Consequences of refusal to make discovery.

Rule 245. If a party refuses to comply with an order issued under R 792.10239(3) or R 792.10243(4), then the tribunal may, upon motion, hold a party or parties in default or issue other orders in regard to the refusal as justice requires.

R 792.10247 Prehearing conference~~; joint hearing and consolidation~~.

Rule 247. (1) Except as provided by R 792.10233 or as otherwise ~~provided~~ **ordered** by the tribunal, a prehearing conference shall be held in all contested cases before the entire tribunal for scheduling a hearing in the contested case.

(2) ~~Not less than 14 days before the prehearing conference or as otherwise provided by the tribunal, each~~ **Each** party shall file and exchange a prehearing statement ~~in a form determined~~ **as ordered** by the tribunal**. The prehearing statement shall be on a form made available by the tribunal or shall be in a written form that is in substantial compliance with the tribunal's form.**

(3) The purposes of the prehearing conference are as follows:

(a) To specify, in a property tax appeal, the present use of the property, the use for which the property was designed, and the classification of the property.

(b) To specify all sums in controversy and the particular issues to which they relate.

(c) To specify the factual and legal issues to be litigated.

(d) To consider the formal amendment of all petitions and answers or their amendment by prehearing order, and, if desirable or necessary, to order that the amendments be made.

(e) To consider the consolidation of petitions for hearing, the separation of issues, and the order in which issues are to be heard.

(f) To consider all other matters that may aid in the disposition of the contested case.

(4) The administrative law judge who conducts the prehearing conference shall prepare, and cause to be served upon the parties or their representatives, not less than 14 days in advance of hearing, an order summarizing the results of the conference specifically covering each of the items stated in this rule and R 792.10114. The summary of results controls the subsequent course of the contested case unless modified at or before the hearing by the tribunal to prevent manifest injustice.

(5) When a contested case is ready for **a** prehearing **conference** ~~as determined by the tribunal~~, the ~~clerk~~ **tribunal** shall schedule the contested case for a prehearing conference at a **date,** time**,** and ~~place~~ **location** to be designated by the tribunal or shall place the contested case on a prehearing general call.

(6) **If a prehearing conference is scheduled, notice** ~~Notice~~ of the date, time, and ~~place~~ **location** of the prehearing conference shall be provided to the parties not less than 28 days before the date of the prehearing conference, unless otherwise ~~provided~~ **ordered** by the tribunal. **The notice shall set forth the dates for the filing and exchange of valuation disclosures, prehearing statements, and the closure of discovery.**

(7) ~~The clerk shall send~~ **If a contested case is placed on a prehearing general call,** notice of the prehearing general call ~~and scheduling order~~ shall **be provided** to ~~all~~ parties ~~whose case is placed on the prehearing general call~~ not less than 28 days before the commencement of the prehearing general call, unless otherwise ordered by the tribunal. The notice shall set forth the time period in which the prehearing conference will be held and the dates for the filing and exchange of valuation disclosures, prehearing statements, and the closure of discovery.

(8) The tribunal may ~~direct~~ **order** the parties or the parties' attorney or authorized representative to furnish it with a prehearing brief as to the legal issues involved in the proceeding and designate the manner and time for filing and serving of the briefs.

(9) Failure to appear at a duly scheduled prehearing conference may result in the dismissal of the contested case or the scheduling of a default hearing as provided in R 792.10231(4).

(10) ~~Discovery shall not be conducted after completion of the prehearing conference, unless otherwise provided by the tribunal~~ **If the value or values in contention as reflected by the petitioner's prehearing statement or valuation evidence are greater than the value or values in contention reflected by the petition and any motions to amend to include a prior or subsequent tax year assessment, the petitioner shall pay the additional fees that would have been required for the filing of the petition and motions based on the value or values in contention reflected by the petitioner's prehearing statement or valuation evidence, whichever is greater.**

R 792.10249 Stipulations.

Rule 249. **(1)** A consent judgment may be entered upon submission of a stipulation with appropriate fee, if the stipulation **has been filed after the filing of a petition,** is signed by all parties or their attorneys or authorized representatives ~~and the stipulation~~**, addresses issues over which the tribunal's authority has been or may be properly invoked, and** is found to be acceptable to the tribunal. The stipulation shall be on a form made available by the tribunal or shall be in a written form that is in substantial compliance with the tribunal's form.

(2) If the value or values in contention in the stipulation are greater than the value or values in contention reflected by the petition and any motions to amend to include a prior or subsequent tax assessment, the petitioner shall pay the additional fees that would have been required for the filing of the petition and motions based on the value or values in contention in the stipulation.

(3) If any additional filing fees are required by this section, those fees must be paid before action will be taken on the stipulation.

(4) If a party or parties submit the stipulation at the hearing held by the tribunal to resolve the case and the hearing is conducted at a site other than the tribunal's office, the party or parties shall pay the fee required for the filing of the stipulation to the tribunal within 14 days of the hearing date. If the hearing is conducted at the tribunal's office, the party or parties shall pay the required filing fee upon submission of the stipulation.

R 792.10251 Hearings.

Rule 251. (1) When a contested case is ready for hearing, the ~~clerk~~ **tribunal** shall schedule the matter for a hearing at a time and place to be designated by the tribunal. The ~~clerk~~ **tribunal** shall send notice of the time, date, and place of a hearing to all parties or their attorneys or authorized representatives not less than 28 days before the hearing, unless otherwise ~~provided~~ **ordered** by the tribunal.

(2) The tribunal may, on motion or its own initiative, adjourn a hearing.

R 792.10253 Subpoenas.

Rule 253. (1) On written request of a party to a contested case, the tribunal~~, through the clerk,~~ shall, as provided by section 36 of the tax tribunal act, MCL 205.736, issue subpoenas for the attendance and testimony of witnesses and, if appropriate, the production of evidence at hearing or deposition, including, but not limited to, books, records, correspondence, and documents in their possession or under their control.

(2) A party may serve a subpoena by ~~mailing~~ **mail** or **personal** delivery as provided by rule 2.105 of the Michigan court rules. However, a party may not serve a subpoena less than 3 business days before a scheduled hearing **or deposition**, unless otherwise ~~provided~~ **ordered** by the tribunal.

(3) Proceedings to enforce a subpoena may be commenced in the circuit court for the county in which the hearing is held.

R 792.10257 Rehearings or reconsideration.

Rule 257. (1) The tribunal may order a rehearing or reconsideration of any decision or order upon its own initiative or the motion of any party filed within 21 days of the entry of the decision or order sought to be reheard or reconsidered.

(2) No response to the motion may be filed and there is no oral argument, unless otherwise ~~provided~~ **ordered** by the tribunal.

R 792.10259 Witness fees.

Rule 259. A witness who is summoned to a hearing, or whose deposition is taken, shall receive the same fees and mileage as witnesses in the **state's** circuit courts~~ of the state~~. A witness shall not be required to testify until the fees and mileage provided for have been tendered to him or her by the party at whose instance he or she has been subpoenaed.

SUBPART C. MATTERS BEFORE SMALL CLAIMS DIVISION~~.~~

R 792.10261 Scope.

Rule 261. The rules in subpart ~~A~~ **a** and this subpart govern practice and procedure in all contested cases pending in the small claims division and shall be known as the small claims rules. If an applicable small claims rule does not exist, then the entire tribunal rules govern, except for rules that pertain to discovery, which, in the small claims division, is by leave of the tribunal only.

R 792.10263 Jurisdiction.

Rule 263. (1) A ~~property tax appeal petition contesting~~ **contested case disputing** a property's state equalized or taxable value may be heard in the small claims division if any 1 of the following properties is exclusively involved:

(a) Real property classified as residential **real property under section 34c of 1893 PA 206, MCL 211.34c**.

(b) Real property ~~that has a principal residence exemption, as provided in~~ **exempt under** section 7cc of 1893 PA 206, MCL 211.7cc.

(c) Real property classified as agricultural **real property under section 34c of 1893 PA 206, MCL 211.34c**.

(d) Real property with less than 4 rental units.

(e) Any other property where the value in contention is not more than the amount provided by section 62 of the tax tribunal act, MCL 205.762.

(2) A **contested case disputing** a non-property tax ~~appeal petition~~ **matter** may be heard in the small claims division if the amount of tax in ~~dispute~~ **contention** is not more than the amount provided by section 62 of the tax tribunal act, MCL 205.762, exclusive of interest and penalty charges.

(3) A ~~property tax appeal petition contesting~~ **contested case disputing** a special assessment may be heard in the small claims division if the amount of the special assessment in ~~dispute~~ **contention** is not more than the amount provided by section 62 of the tax tribunal act, MCL 205.762.

R 792.10265 Records.

Rule 265. (1) A formal transcript shall not be taken for any ~~contested case~~ **hearing** conducted in the small claims division, unless otherwise provided by the tribunal.

(2) An informal transcript of a ~~contested case~~ **hearing** conducted in the small claims division is not a record of the ~~proceeding~~ **hearing**, unless otherwise ~~provided~~ **ordered** by the tribunal.

R 792.10267 Fees.

Rule 267. (1) There is no fee for the filing of a property tax appeal petition, a motion, or a stipulation for entry of consent judgment in a small claims division ~~proceeding contesting~~ **contested case disputing** a property's state equalized or taxable value **or exemption from ad valorem taxation**, if the property has, at the time of the filing of the petition, a principal residence exemption of at least 50% for all tax years at issue.

(2) There is no fee for the filing of a property tax appeal petition, a motion, or a stipulation for entry of consent judgment in a small claims division ~~proceeding contesting~~ **contested case disputing** the denial of a poverty exemption **or disabled veterans exemption** only.

(3) For all other small claims ~~appeals~~ **contested cases**, the following fees shall be paid to the ~~clerk~~ **tribunal** upon **the** filing **of all petitions, motions, or stipulations for entry of consent judgment in each contested case, unless otherwise ordered by the tribunal**:

(a) The fee for filing a property tax appeal petition contesting a property's state equalized or taxable value **or exemption from ad valorem taxation** for property ~~classified~~ **defined** as residential **property under section 62 of the tax tribunal act, MCL 205.762,** ~~real~~ is 50% of the filing fee provided in R 792.10217(a). If the petition contains multiple, contiguous parcels of property owned by the same person, there shall be an additional $25.00 fee for each additional parcel, not to exceed a total filing fee of $1,000.00.

(b) The fee for filing a property tax appeal petition contesting a property's state equalized or taxable value **or exemption from ad valorem taxation** for property that is not ~~classified~~ **defined** as residential **property under section 62 of the tax tribunal act, MCL 205.762,** ~~real~~ is the fee provided in R 792.10217(a).

(c) The fee for filing a property tax appeal petition contesting the denial of a principal residence or qualified agricultural exemption is $25.00.

(d) The fee for filing a property tax appeal petition contesting a special assessment or a non-property tax appeal petition is $100.00.

(e) The fee for filing a property tax appeal petition contesting the classification of property is $75.00.

(f) The fee for filing a stipulation for entry of consent judgment ~~instead of a property tax appeal or non-property tax appeal petition~~ is $25.00.

~~(g) If a petition has been filed, the fee for filing a stipulation for entry of consent judgment is $25.00.~~

~~(h)~~**(g)** The fee for filing a motion for immediate consideration or a motion for summary disposition or partial summary disposition is $50.00.

~~(i)~~**(h)** The fee for filing a motion to withdraw a petition **or a motion to have the hearing conducted on the file or conducted telephonically for the moving party or parties** is $0.00. **See also R 792.10275.**

~~(j)~~**(i)** The fee for the filing of a stipulation or motion by an attorney or authorized representative who has entered an appearance in a proceeding to withdraw from or be substituted for in that proceeding is $0.00.

(j) The fee for the filing of a stipulation agreeing to participate in mediation is $0.00.

(k) The fee for the filing of all other motions is $25.00.

(l) The fee for the filing of multiple motions in a single document is the largest fee that would have been charged if each motion had been filed separately.

~~(4) The fee for the certification of the record on appeal to the court of appeals is $100.00.~~

~~(5) The fee for copies of pleadings and other documents is $ .50/page.~~

R 792.10271 ~~Protest to local board of review; subsequent year~~**Subsequent tax** assessments.

Rule 271. ~~(1) For an assessment dispute as to the valuation or exemption of property classified as commercial personal property, industrial personal property, or utility personal property, the property's assessment shall be protested to the local board of review unless the statement of assessable personal property is filed, as required by section 19 of the general property tax act, 893 PA 206, MCL 211.19, prior to the commencement of the board of review, as provided by section 35a of the tax tribunal act, MCL 205.735a.~~

~~(2) For an assessment dispute as to the valuation or exemption of property classified as agricultural real or personal, residential, real or timber-cutover real, the property's assessment shall be protested to the local board of review, unless otherwise excused by law.~~

~~(3)~~ The appeal for each subsequent year for which an assessment has been established is added automatically to the petition for an assessment dispute as to the valuation or exemption of property at the time of hearing. For this subrule, ~~an~~ **a subsequent tax year** assessment ~~has been established once the board of review has conducted its statutorily required March board of review meeting~~ **is deemed established by April 1 of that tax year**.

~~(4) The tribunal may, on request and for good cause shown, exclude subsequent years from consideration at the time of hearing, if the subsequent years can be handled more expeditiously in a subsequent contested case.~~

R 792.10273 Transfers.

Rule 273. (1) A party may, by motion and notice to the opposing party or parties, request a transfer of the contested case from the small claims division to the entire tribunal.

(2) If the motion is filed with the tribunal after the notice of hearing in the contested case has been issued by the tribunal, the parties shall appear at the hearing and be prepared to conduct the hearing, unless otherwise provided by the tribunal.

(3) If the request is granted, the moving party shall pay all entire tribunal filing fees and any reasonable costs **that the tribunal determines may be** incurred by the opposing party or parties as a **direct** result of the transfer~~, unless otherwise provided by the tribunal~~.

(4) With the permission of the petitioner, the tribunal may refer a contested case properly pending in the small claims division to the entire tribunal.

R 792.10275 Appearance and representation.

Rule 275. (1) ~~Petitioner's failure to appear or be represented at a scheduled hearing may result in a dismissal of the contested case. (2)~~ The tribunal may, upon ~~request of a party~~ **motion** filed with the tribunal **and served on the opposing party or parties at least 28 days** before the hearing scheduled in ~~that~~ **a** contested case, conduct a hearing ~~in the absence of a~~ **on the file for the moving** party. If ~~a hearing is conducted with a party being absent~~ **the motion is granted**, ~~then~~ the tribunal shall render a decision based on the testimony provided by the opposing party or parties **at the hearing**, if any, and all pleadings and written evidence properly submitted by all parties not less than 21 days before the date of the scheduled hearing or as otherwise provided by the tribunal under R 792.10287(1).

(2) The tribunal may, upon motion filed with the tribunal and served on the opposing party or parties at least 28 days before the hearing scheduled in a contested case, conduct a hearing telephonically for the moving party.

R 792.10277 Commencement of proceedings.

Rule 277. (1) The petition shall be on a form made available by the tribunal or shall be in a written form that is in substantial compliance with the tribunal's form.

(2) The petition shall set forth ~~the~~ **a clear and concise statement of** facts upon which the petitioner relies in making petitioner's claim for relief.

(3) For property tax contested cases, a copy of the notice ~~or action taken by the local board of review~~ **giving rise to the appeal (i.e., notice of Board of Review action, notice of taxable value uncapping, notice denying principal residence exemption, etc.)** shall be ~~attached~~ **submitted concurrently with the petition**. ~~For special assessment proceedings, a copy of the resolution confirming the special assessment roll shall be attached.~~ For non-property tax ~~proceedings~~ **contested cases**, a copy of the final assessment notice or other order being appealed shall be ~~attached~~ **submitted concurrently with the petition**.

(4) Any evidence ~~attached to or~~ submitted **concurrently** with a petition shall be served on the opposing party or parties or their attorney or authorized representative, as required by R 792.10287(1). Evidence not served on the opposing party or parties or their attorney or authorized representative may be excluded, as provided by R 792.10287(1).

R 792.10279 Answers.

Rule 279. (1) An answer to a petition shall be filed with the tribunal ~~and served on the opposing party or parties~~ within 28 days after the tribunal serves the notice of docket number on the respondent. Failure to file ~~and serve~~ the answer as required by this rule may result in the holding of respondent in default, as provided by R 792.10231.

(2) The answer shall be on a form made available by the tribunal or shall be in the form of a written response that is in substantial compliance with the tribunal's form.

(3) The answer shall set forth ~~the~~ **a clear and concise statement of** facts upon which the respondent relies in defense of the matter.

(4) ~~For property tax contested cases, a copy of the notice or action taken by the local board of review shall be attached.~~ For special assessment contested cases, the answer shall specify the statutory authority under which the special assessment district was created and a copy of the resolution confirming the special assessment roll shall be ~~attached~~ **submitted concurrently with the answer**. ~~For non-property tax contested cases, a copy of the final notice of assessment or other order being appealed shall be attached.~~

(5) Any evidence ~~attached to or~~ submitted **concurrently** with the answer must be served on the opposing party or parties or their attorney or authorized representative, as provided by R 792.10287(1). Evidence not served on the opposing party or parties or their attorney or authorized representative may be excluded, as provided by R 792.10287(1).

(6) ~~Service of the answer and any evidence filed with the answer shall be made on the opposing party or parties unless an attorney or authorized representative has entered an appearance in the proceeding on behalf of that opposing party or parties and then service shall be made on the attorney or authorized representative.~~

~~(7)~~ The ~~party who files the answer shall also file with the tribunal a statement attesting to the service of the answer on the opposing party or parties or their attorney or authorized representative. The statement shall specify who was served with the answer and the date and method by which the answer was served. Failure to make proof of service does not affect the validity of the service~~ **tribunal shall issue a notice upon the filing of the answer indicating that the answer has been filed and that the contested case is ready for the scheduling of a hearing**.

R 792.10281 Stipulations.

Rule 281. **(1)** A consent judgment may be entered upon submission of a stipulation with appropriate fee, if the stipulation **has been filed after the filing of a petition,** is signed by

all parties or their attorneys or authorized representatives ~~and the stipulation~~**, addresses issues over which the tribunal's authority has been or may be properly invoked, and** is found to be acceptable to the tribunal. The stipulation shall be on a form made available by the tribunal or shall be in a written form that is in substantial compliance with the tribunal's form.

(2) If the value or values in contention in the stipulation are greater than the value or values in contention reflected by the petition, the petitioner shall pay the additional fees that would have been required for the filing of the petition based on the value or values in contention in the stipulation.

(3) If any additional filing fees are required by this section, those fees must be paid before action will be taken on the stipulation.

(4) If a party or parties submit the stipulation at the hearing held by the tribunal to resolve the case and the hearing is conducted at a site other than the tribunal's office, the party or parties shall pay the fee required for the filing of the stipulation to the tribunal within 14 days of the hearing date. If the hearing is conducted at the tribunal's office, the party or parties shall pay the required filing fee upon submission.

R 792.10285 Notice of hearing.

Rule 285. Notice shall be sent to the parties or their attorneys or authorized representatives of the time and date of the hearing, if telephonic, and the time, date, and ~~place~~ **location** of the hearing, if by video conference or in-person, not less than 45 days before the hearing, unless otherwise ordered by the tribunal.

R 792.10287 Evidence.

Rule 287. (1) A copy of all evidence**, other than rebuttal evidence,** to be offered in support of a party's contentions shall be filed with the tribunal and served ~~upon the opposing party or parties~~ not less than 21 days before the date of the scheduled hearing, unless otherwise provided by the tribunal. Failure to comply with this subrule may result in the exclusion of the valuation disclosure or other written evidence at the time of the hearing because the opposing party or parties may have been denied the opportunity to adequately consider and evaluate the valuation disclosure or other written evidence before the date of the scheduled hearing. **If a valuation disclosure or other written evidence is excluded, the tribunal shall indicate in the decision the basis for its exclusion.**

(2) Service of the evidence shall be made on the opposing party or parties unless an attorney or authorized representative has entered an appearance in the contested case on behalf of that opposing party or parties and then service shall be made on the attorney or authorized representative.

(3) If rebuttal evidence is submitted to the tribunal and the opposing party or parties less than 21 days prior to the date of the scheduled hearing, the party or parties submitting the rebuttal evidence shall bring 2 copies of that evidence to the hearing – 1 for the presiding administrative law judge and 1 for the opposing party or parties.

(4) Each party shall be responsible for redacting that party's evidence to remove any confidential or sensitive information, whether submitted concurrently with a petition or answer or submitted prior to or at the scheduled hearing.

R 792.10289 Exceptions; filing of exceptions; "good cause" defined; service of exceptions; ~~location of rehearing~~ **rehearings**.

Rule 289. (1) A party may submit exceptions to a decision by a referee or an administrative law judge, other than **a** tribunal member, by filing **and serving** the exceptions ~~with the tribunal and serving a copy on the opposing party or parties~~ within 20 days of the entry of the decision. The exceptions are limited to the evidence submitted prior to or otherwise admitted at the hearing and any matter addressed in the proposed opinion and judgment and shall demonstrate good cause as to why the decision should be adopted, modified, or a rehearing held. For purposes of this subrule, "good cause" means error of law, mistake of fact, fraud, or any other reason the tribunal considers sufficient and material.

(2) The opposing party or parties may file and serve a response to the exceptions within 14 days of the service of the exceptions on that party.

(3) Service of the exceptions or response shall be made on the opposing party or parties unless an attorney or authorized representative has entered an appearance in the contested case on behalf of that opposing party or parties and then service shall be made on the attorney or authorized representative.

(4) The party **or parties** who ~~files~~ **file** exceptions or a response shall also file ~~with the tribunal, or include as a part of the exceptions or response,~~ a statement attesting to the service of the exceptions or response on the opposing party or parties or their attorney or authorized representative. The statement shall specify who was served with the exceptions or response and the date and method by which the exceptions or response was served. **If no statement attesting to the service of the exceptions or response is filed, the tribunal shall issue a notice of no action. If the statement is filed within the time period provided by the tribunal, action shall be taken on the exceptions or response.**

(5) A rehearing, if held, shall be conducted by a tribunal member in a manner to be determined by the tribunal and may be limited to the evidence considered at the hearing.

SUBPART D. MEDIATION

R 792.10291 Scope.

Rule 291. The rules in this subpart govern mediation in all contested cases pending in the tribunal and shall be known as the mediation rules. If an applicable mediation rule does not exist, the rules in subparts (a), (b), and (c) and MCR 2.411 and 2.412 of the 1995 Michigan rules of court, as amended, shall govern.

R 792.10293 Mediation; referral to mediation; selection of mediator.

Rule 293. A contested case may be referred to mediation by order of the tribunal if all of the following occur:

(a) The parties file a stipulation agreeing to participate in mediation.

(b) The stipulation designates a mediator selected from the list of mediators certified by the tribunal and published by the tribunal.

(c) The stipulation specifies that the selected mediator has disclosed any potential basis for disqualification.

(d) The stipulation specifies that the parties and the selected mediator have agreed to the compensation of the mediator and the payment of that compensation. See MCR 2.411(D)(i) and (ii) of the 1995 Michigan rules of court, as amended.

R 792.10295 Scheduling; conduct of mediation; completion of mediation.

Rule 295. (1) The order referring a contested case to mediation shall address all proceedings and deadlines previously scheduled by the tribunal in that contested case and specify the time within which the mediation is to be completed. The substitution of a mediator will not extend the time within which mediation is to be completed unless otherwise ordered by the tribunal.

(2) Mediation shall be conducted as provided by MCR 2.411(C)(2) of the 1995 Michigan rules of court, as amended.

(3) Within 7 days of the completion of the mediation, the mediator shall advise the tribunal of the completion by filing a mediation status report. The report shall be on a form made available by the tribunal.

(4) If a contested case is settled through mediation, the parties shall file a stipulation with appropriate filing fee and a consent judgment will be entered if the stipulation is found to be acceptable to the tribunal. See also R 792.10249 and R 792.10281.

R 792.10297 Mediators; standards of conduct; eligibility; application fee; list of mediators; removal, rejection, and reconsideration.

Rule 297. (1) A mediator has no authoritative decision-making power to resolve a contested case before the tribunal in mediation.

(2) A mediator shall comply with the standards of conduct for mediators as provided under MCR 2.411(G) of the 1995 Michigan rules of court, as amended.

(3) An individual who wants to be certified as a mediator shall file a mediation application with the tribunal. The application shall be on a form made available by the tribunal.

(4) An individual shall be eligible to be a mediator if he or she complies with both of the following:

(a) The individual has 5 years of state and local tax experience and that experience has occurred within the 7 years immediately preceding the submission of the application. ~~and~~

(b) The individual is qualified as a general civil mediator under MCR 2.411(F)(2) and (4) of the 1995 Michigan rules of court, as amended.

(5) An individual that files an application and pays the application fee may be certified, if eligible, and placed on a published list of mediators for a period of 1 year at which time the individual must reapply in the same manner as a new individual.

(6) The fee for the filing of an application to be certified as a mediator is $50.00.

(7) The tribunal shall review applications and compile a list of certified mediators at least quarterly and publish the list of mediators on the tribunal's website.

(8) The mediator list shall provide all of the following:

(a) The hourly rate charged by each certified mediator for his or her mediation services.

(b) The type of tax the mediator is certified to mediate.

(c) A summary of the certified mediator's experience and training as a mediator.

(d) The forum or forums in which the mediator is certified to practice.

(9) The tribunal may remove a certified mediator from the list of mediators as provided by MCR 2.411(E)(4) of the 1995 Michigan rules of court, as amended.

(10) If an individual that files an application and pays the application fee is not certified as a mediator or is removed from the list of mediators, that individual may file a motion seeking reconsideration of the rejection or removal. See R 792.10257. The motion shall be considered by the tribunal chair.

PART 3: DEPARTMENT OF ~~ENVIRONMENTAL QUALITY~~ **ENVIRONMENT, GREAT LAKES AND ENERGY** AND DEPARTMENT OF NATURAL RESOURCES

R 792.10301 Scope of rules; statutory procedures; absence of procedures.

Rule 301. (1) These rules govern all contested case proceedings before the department of ~~environmental quality~~ **environment, great lakes and energy** and the department of natural resources ~~and requests for declaratory rulings~~.

(2) These rules do not apply to proceedings under parts 615 and 617 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.61501 to 324.61527 and MCL 324.61701 to 324.61738.

(3) If a rule does not address an issue of procedure, then chapter 4 of the act, 1969 PA 306, MCL 24.271 to MCL 24.287 applies.

R 792.10302 Definitions.

Rule 302. (1) As used in this part:

(a) "Department" means the department of ~~environmental quality~~ **environment, great lakes and energy** or the department of natural resources.

(b) "Director" means the director of the department of ~~environmental quality~~ **environment, great lakes and energy** or the department of natural resources.

(c) "Final decision maker" means the director or any other person to whom the director has delegated final decision making authority in contested cases**, or the environmental permit review commission under section 1313 of act 268 of 2018, MCL 324.1313**.

R 792.10307 Environmental Permit Review Commission.

Rule 307. (1) In a contested case where the environmental permit review commission has jurisdiction under section 1301 of act 268 of 2018, MCL 324.1301 the administrative law judge shall issue a final decision and order. Any party to the contested case has 21 days from the receipt of the final decision and order to file a petition for review with the environmental permit review commission. The filing of a petition for review converts the administrative law judge's final decision and order to a proposal for decision under section 81 of act 306 of 1969, MCL 21.281.

(2) If a petition for review is not filed under subrule (1) of this rule, the final decision and order of the administrative law judge is the final agency action for purposes of any applicable judicial review.

(3) A petition for review under subrule (1) of this rule shall be filed with the director of the department of environmental quality and served on the administrative law judge. Subsequent to the filing of a petition for review, the administrative law judge shall certify the record and transmit it to the environmental permit review commission.

(4) Upon receipt of the administrative record under subrule (3) of this rule, the environmental permit review commission will set the dates for the future course of the proceedings, including the filing of exceptions to the proposal for decision, responses to exceptions, and the public meeting under section 1313 of act 268 of 2018, MCL 324.1313.

PART 4: PUBLIC SERVICE COMMISSION.
PRACTICE AND PROCEDURE BEFORE THE COMMISSION

SUBPART A. GENERAL PROVISIONS

Compiler's Note: The administrative rules that fall under Part 4 extend beyond the administrative hearing process handled by the hearing system. For the best interests of the public and the practitioners within this subject area, a joint rule set has been adopted that applies to all administrative matters before the public service commission, and including the administrative hearings before the hearing system.

R 792.10402 Definitions.

Rule 402. As used in this part:

(a) "Applicant" means ~~one~~ **a person** who applies, requests, or petitions for permission, authorization, or approval.

(b) "Commission" means the Michigan public service commission.

(c) "Complainant" means ~~one~~ **a person** who files a complaint pursuant to these rules.

(d) "Complaint" means an initial pleading filed by a complainant.

(e) **"Director of the regulatory affairs division" means the commission employee assigned to manage the executive secretary and administrative law specialists advising the commission.**

(f) "Document" means a record produced on paper or a digital image of a record originally produced on paper or originally created by electronic means, the output of which is readable by sight and can be printed on paper.

(g) "Electronic filing" means the process of submitting a document over the internet to the commission in accordance with the e-docket instructions available on the commission's website.

(h) "Electronic service" means the serving of any document by e-mail in accordance with MCR 2.107(C)(4) of the Michigan court rules, as amended.

(i) "Electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(j) "Intervenor" means ~~one~~ **a person** permitted to intervene in a proceeding pursuant to these rules.

~~(f)~~**(k)** "Party" means a person by or against whom a proceeding is commenced or a person who is permitted to intervene~~, a person who protests an application for motor carrier authority,~~ or the staff of the commission in any proceeding in which the staff participates. Parties to a proceeding shall designate themselves as applicants, complainants, intervenors, respondents, ~~protestants,~~ or staff according to the nature of the proceeding and the relationship of the parties.

~~(g)~~**(l)** "Person" means any of the following entities:

(i) A natural person.

(ii) Corporation.

(iii) Municipal corporation.

(iv) Public corporation.

(v) Body politic.

(vi) Government agency.

(vii) Association.

(viii) Partnership.

(ix) Receiver.

(x) Joint venture.

(xi) Trustee.

(xii) Common law or statutory trust guardian.

(xiii) Executor.

(xiv) Administrator.

(xv) Fiduciary of any kind.

(xvi) Staff.

~~(h)~~**(m)**"Pleading" means any of the following:

(i) An application, petition, complaint, or other document requesting initiation of a proceeding before the commission.

(ii) An answer to a document described in paragraph (i) of this subdivision.

(iii) A reply to an answer described in paragraph (ii) of this subdivision.

(iv) A petition to intervene or the staff's written appearance or notice of intention to participate.

(v) An objection to a petition to intervene.

(vi) A motion or a response to a motion.

(vii) A petition to reopen a proceeding or a response to a petition to reopen a proceeding.

(viii) A petition for rehearing or a response to a petition for rehearing. A petition for clarification or a response to a petition for clarification.

~~(i)~~**(n)** "Presiding officer" means the administrative law judge assigned by the hearing system or other person assigned by the commission to preside over and hear a proceeding or part of a proceeding held before the commission. The commission or a commissioner is a presiding officer only when it or he or she presides over and hears a proceeding or part of a proceeding.

~~(j)~~**(o)** "Prima facie case" means a case in which, assuming all the facts in the complaint are true, the complainant is requesting a remedy that is within the jurisdiction of the commission to grant.

~~(k)~~**(p)** "Proof of publication" means an affidavit stating the facts of publication, including the date, publication, and manner of publication with a copy of the publication attached.

~~(l)~~**(q)** Proof of service" means an affidavit stating the facts of service, including the date, place, and manner of service and the parties served.

~~(m) "Protestant" means a motor carrier who files a written protest to an application for motor carrier authority pursuant to the provisions of the motor carrier act, 1933 PA 254, MCL 475.1 to 475.49.~~

~~(n)~~**(r)** "Respondent" means one against whom a complaint is filed or against whom an investigation, order to show cause, or other proceeding on the commission's own motion is commenced and a utility rendering the same kind of service within a municipality or part of a municipality proposed to be served by another utility in a proceeding under the provisions of R 792.10447.

~~(o)~~**(s)** "Secretary" means the person designated by the commission as its secretary or, in the absence of the secretary, the person designated by the commission as its acting secretary.

~~(p)~~**(t)** "Staff" means an employee or employees of the commission other than the presiding officer and commissioners.

R 792.10403 Applicability; construction.

Rule 403. (1) These rules govern practice and procedure in all proceedings before the commission, except as otherwise provided by statute or these rules. In areas not addressed by these rules, the presiding officer may rely on appropriate provisions of the ~~currently effective~~ Michigan court rules.

(2) These rules shall be liberally construed to secure a just, economical, and expeditious determination of the issues presented.

R 792.10404 Information, documents, and communications.

Rule 404. (1) Pleadings and other documents ~~shall be in writing and~~ shall conform to all requirements of these rules. The secretary, upon reasonable request, shall provide advice about the form of pleadings and other documents to be filed in a proceeding.

(2) **Except for confidential documents and filings addressed under subpart E of these rules, P~~p~~**leadings and other documents filed with the commission shall be ~~printed, typewritten, or reproduced and shall be on paper 8 1/2 inches x 11 inches in size, or folded to that size, or shall be on forms supplied by the commission, except when specific permission to the contrary is granted by the commission, its secretary, or the presiding officer~~ **electronically filed**.

R 792.10405 Pleadings; verification and effect; adoption by reference; signature of attorney.

Rule 405. (1) Unless otherwise provided by these rules, statute, or commission order, a pleading need not be verified or accompanied by an affidavit.

(2) Statements in a pleading may be adopted by reference when they are clearly identified and a copy is attached.

(3) Every pleading of a party represented by an attorney shall be signed **or electronically signed** by an attorney of record. A party who is not represented by an attorney shall sign **or electronically sign** the pleading.

(4) If a pleading is not signed, it shall be subject to rejection by the presiding officer or the commission unless it is signed promptly after the omission is called to the attention of the pleader.

(5) The signature **or electronic signature** of an attorney or party, whether or not the party is represented by an attorney, constitutes a certification by the signer of all of the following:

(a) He or she has read the pleading.

(b) To the best of his or her knowledge, information, and belief formed after reasonable inquiry, the pleading is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

(c) The pleading is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of the proceeding.

R 792.10406 Filing and service of documents.

Rule 406. (1) Pleadings and other documents are filed with the commission by filing with the ~~secretary~~ **executive business section**. **Except as provided in subpart E of these rules,** ~~U~~**u**nless otherwise provided by statute or order of the commission or presiding officer, the filing and service of notices, pleadings, motions, and other documents ~~or copies~~ required to be filed or served in a proceeding shall be made electronically ~~in accordance with the e-dockets user manual, with the exception of filings made in residential complaint proceedings. The filing and service of notices, pleadings, motions, and other documents required to be filed in residential complaint proceedings shall be made by deposit with the United States postal service for first-class mailing or by delivery in person~~.

(2) Unless otherwise provided by rule or statute, the date of filing is the date the pleading or other document is received by the commission ~~if deposited with the United States postal service~~. If filed electronically, the date of filing is **the date that a complete and compliant document is submitted in** ~~determined in accordance with~~ the e-dockets **system** ~~user manual~~. The date of service is the date it is deposited with the United States postal service for first-class mailing **or courier delivery service** or is delivered in person, unless otherwise provided by the commission~~, if deposited with the United States postal service~~. If served electronically ~~via e-mail~~, the date of service is the date the e-mail is sent. **To be considered timely, a document must be filed and served by 11:59 p.m. on the due date unless that time is modified by the presiding officer or the commission. Documents filed after 11:59 p.m. or after the time designated by the presiding officer or the commission will be considered to have been filed the next business day.**

~~(3) In all residential complaint cases, a party shall file an original and 7 copies of each document.~~

~~(4)~~**(3)** Confidential filings shall be made in accordance with the ~~e-dockets user manual~~ **instructions on the commission's website**.

(4) Filings may be removed from the e-docket only after submission of a written formal request for removal to the executive secretary along with a detailed explanation of the reason for requesting removal. **All filings are retained and destroyed in accordance with the commission's approved record retention and disposal schedule.**

(5) Filers ~~are advised to~~ **shall** consult mpsc guideline 2014-1 for a description of documents that may be rejected for filing.

~~(5) If the required number of copies are not filed, a document shall be subject to rejection by the presiding officer or the commission unless the party files the additional copies promptly after the omission is called to the attention of the party.~~

(6) **Except for residential complaint cases addressed under R 792.10441(5) of these rules,** ~~A~~ **a** party shall **electronically** serve on all other parties a copy of each document that the party files with the commission. After notice of hearing has been given in a proceeding, a party shall serve, on the assigned presiding officer or, if a presiding officer has not been assigned, on the administrative law manager assigned by the hearing system to the commission, a copy of each document that the party files.

(7) When a party has appeared by attorney, service upon the attorney is service upon the party.

(8) Service on municipalities shall be made on supervisors of townships and on clerks of other municipalities.

(9) Within 7 days after a document is served, the person serving the document shall file proof of service or acceptance of service by the person served or that person's attorney.

(10) Not less than 7 days prior to the date set for the initial prehearing, an applicant may file a request that the commission read the record in a pending proceeding and dispense with the proposal for decision. A copy of the request shall be served upon the other parties to the proceeding and upon the director of **the** regulatory affairs **division**. Applicants are cautioned that such requests will be granted only under extraordinary circumstances.

R 792.10407 Proceedings; location; time.

Rule 407. Meetings of the commission and hearings in all proceedings held pursuant to any statute or these rules shall be held **at the commission's offices located at 7109 W. Saginaw Hwy.** in Lansing**, Michigan 48917** or such other place as the commission may direct on such days and at such hours as the commission, the secretary, or the presiding officer may direct.

R 792.10408 Cost of copies of decisions and transcripts.

Rule 408. A copy of the decision or order in a proceeding shall be ~~furnished free of charge~~ **served electronically** to each party to the proceeding. **Paper** ~~C~~**c**opies of transcripts and ~~additional copies of~~ **proposals for** decision~~s~~ shall be furnished at rates consistent with current policy and statutes. **Paper copies of orders shall be provided upon request.**

SUBPART B. INTERVENTIONS

R 792.10410 Petitions.

Rule 410. (1) A person who is not a complainant, respondent, ~~protestant,~~ applicant, or staff, as defined in these rules, and who claims an interest in a proceeding may petition for leave to intervene. Unless otherwise provided in the notice of hearing, a petition for leave to intervene shall be filed with the commission not less than 7 days before the date set for the initial hearing or prehearing conference and the petition shall be served on all parties to the proceeding. All parties shall have an adequate opportunity to file objections to, and to be heard with respect to, the petition for leave to intervene. A petition for leave to intervene that is not filed in a timely manner may be granted upon a showing of good cause and a showing that a grant of the petition will not delay the proceeding or unduly prejudice any party to the proceeding. Except for good cause, an intervenor whose petition is not filed in a timely manner, but who is nevertheless granted leave to intervene, shall be bound by the record and procedural schedules developed before the granting of leave to intervene.

(2) A petition for leave to intervene shall set out clearly and concisely the facts supporting the petitioner's alleged right or interest, the grounds of the proposed intervention, and the position of the petitioner in the proceeding to fully and completely advise the parties and the commission of the specific issues of fact or law to be raised or controverted. If affirmative relief is sought, the petition for leave to intervene shall specify that relief. Requests for relief may be stated in the alternative.

R 792.10413 Participation without intervention.

Rule 413. (1) In a proceeding to fix rates or investigate conditions of service of a utility ~~or motor carrier~~ subject to the jurisdiction of the commission, a person may appear without a formal petition for leave to intervene. There shall be a full disclosure of the identity of the person and the interest of the person in the proceeding. ~~The position to be taken shall be fully and fairly stated, the contentions of the person shall be reasonably pertinent to the issues in the proceeding, and any right to unduly broaden the issues shall be disclaimed.~~

(2) An appearance pursuant to this rule entitles the person to make a statement at a time provided for that purpose by the presiding officer, but the person shall not be regarded as a party to the proceeding. **The position to be taken shall be fully and fairly stated, the contentions of the person shall be reasonably pertinent to the issues in the proceeding, and any right to unduly broaden the issues shall be disclaimed.** A statement shall not be given under oath and shall not be subject to cross-examination by the parties. **A statement made pursuant to this rule shall not be considered part of the administrative record.**

(3) A person participating in a case pursuant to this rule is not entitled to notice of adjournment or any other notice, except as otherwise provided by law, and is not entitled to be served with pleadings or other documents.

R 792.10414 ~~Motor carrier proceedings.~~ **Rescinded.**

~~Rule 414. A motor carrier or other person desiring to participate in a motor carrier proceeding shall comply with the provisions of the motor carrier act, 1933 PA 254 MCL, 475.1 to 479.49. When these rules conflict with the motor carrier act or the motor carrier rules, the motor carrier act and the motor carrier rules shall prevail.~~

SUBPART C. HEARINGS

R 792.10415 General provisions.

Rule 415. (1) A contested case proceeding shall be held when required by statute and may be held when the commission so directs.

(2) After a proceeding has been assigned to a presiding officer, the presiding officer-may rule on all matters of evidence, scheduling, and motions. The presiding officer shall seek to secure a timely disposition of the proceeding, recognizing any applicable legislative directives.

(3) The presiding officer may conduct all or part of a hearing by telephone, video-conference, or other electronic means. All substantive and procedural rights apply to hearings under this subrule.

~~(3)~~**(4)** An oral hearing before the commission shall be made a matter of record. The record of the hearing in a contested case shall be transcribed. In all other cases, the record of the hearing need not be transcribed unless a request for a transcript is made by the commission, a party, or the presiding officer. A transcript shall be indexed to show the location of the testimony of each witness and the introduction and receipt into evidence or rejection of all prepared testimony and exhibits. If offered by a party, prefiled testimony ~~shall~~ **may** be bound into the record.

~~(4)~~**(5)** The presiding officer may make provision for any party to request material and relevant corrections of the transcript within a reasonable time after the filing of each volume of the transcript. If the presiding officer does not provide otherwise, any party may file with the commission, within 7 days after each volume of the transcript is filed with the commission, a request for correction of the transcript. Within 7 days after the filing of any request, other parties may file responses in support of, or in opposition to, all or part of the proposed corrections. Thereafter, the presiding officer shall, either upon the record or by order served on all parties, specify the corrections to be made to the transcript. Further, the commission or the presiding officer may specify corrections to be made to the transcript by providing 7 days' notice to all parties and providing a time for responses.

~~(5)~~**(6)** The commission or the presiding officer, or the administrative law manager assigned by the hearing system in any proceeding in which a presiding officer has not been assigned, may order proceedings consolidated for hearing on any or all matters at issue in the proceedings or may order the severance of proceedings or issues in a proceeding if consolidation or severance will promote the just, economical, and expeditious determination of the issues presented.

~~(6)~~**(7)** Tape recorders and other mechanical or electronic devices are permitted at an oral hearing if they are unobtrusive and do not cause a witness to be intimidated or interfere with the orderly conduct of the proceeding.

R 792.10417 Initial notice of hearing.

Rule 417. (1) Except as otherwise provided by statute **or the commission**, not less than 14 days before the date set for the initial hearing, written notice of the hearing shall be provided to all parties and such other persons as the commission or its secretary may direct. For good cause, the commission or its secretary may determine a shorter or longer period for notice. The notice shall contain all of the following information:

(a) A statement of the date, hour, place, and nature of the hearing.

(b) The jurisdiction under which the hearing is to be held, including reference to the statutes, or sections of statutes, **commission orders,** or rules involved.

(c) A short and plain statement of the matters asserted and issues involved. The commission or its secretary may prescribe the form and manner of notice to be given.

~~(2) Publication in the commission's bimonthly information bulletin, issued in accordance with the provisions of article 5 and section 6 of 1933 PA 254, MCL 475.1 to 479.49, shall constitute notice to all motor carriers holding intrastate motor carrier authority from the commission of the applications, transfers, orders, and other business of the commission that appear in the bulletin.~~

R 792.10418 Participation by staff.

Rule 418. The staff may enter an appearance in any proceeding before the commission and present testimony as to the results of its accounting, engineering, and economic investigations, studies, inspections, enforcement activities, or other technical investigations or studies**,**~~. The staff may enter an appearance in any proceeding and~~ file briefs, cross-examine witnesses, and state its position, policy, or recommendations based upon the evidence.

R 792.10421 Prehearing conferences.

Rule 421. (1) A prehearing conference may be held for any of the following purposes:

(a) Identifying and simplifying the factual and legal issues to be resolved.

(b) Amending pleadings by agreement or by prehearing order.

(c) Ruling on petitions to intervene and prehearing motions.

(d) Determining the scope of the hearing.

(e) Separating issues.

(f) Providing for joint, coordinated, or consolidated presentations by parties having substantially identical interests to avoid repetitive, cumulative, or redundant evidence.

(g) Disclosing the number, names, and order of presentation of witnesses.

(h) Producing and exchanging proposed exhibits and prepared testimony of proposed witnesses, and considering the ~~authenticity~~ **admissibility** of proposed exhibits and other documents.

(i) Providing for expeditious completion of discovery.

(j) Presenting and considering appropriate legal authorities in support of, or in opposition to, the contentions of the parties.

(k) Estimating the time required for hearing and establishing a schedule.

(l) Discussing the possibility of voluntary dismissal or settlement of the proceeding.

(m) Requiring production and distribution of proposed exhibits and written prepared testimony reasonably in advance of the hearing session at which the proposed exhibits and written testimony will be offered.

(n) Considering and ruling on other matters that may aid in the expeditious disposition of the proceeding.

(2) Notice of the time and place of any prehearing conference shall be given to all parties. Any person failing to attend or otherwise participate in a prehearing conference after having been served appropriate notice of the time and place shall, with respect to procedural matters, be bound, except for good cause, by any agreements reached**,**

schedules set, and any orders or rulings made. If a transcript of the conference is not prepared, the presiding officer shall ensure that a written summary of the conference is prepared and served on all parties.

(3) Additional conferences may be held, as appropriate, during the course of any proceeding.

(4) At any conference held pursuant to this rule, the presiding officer may dispose of, by ruling, any procedural matter upon which the presiding officer is authorized to rule during the course of the proceeding if the parties have had appropriate notice. All rulings made at any **prehearing** conference ~~held pursuant to this rule~~ shall be binding on all parties to the proceeding unless the rulings are~~, for good cause,~~ subsequently modified or reversed by the presiding officer or the commission.

(5) After proper notice, the presiding officer may, on his or her own initiative or upon the request of a party, direct that a conference telephone or other electronic device be used for a prehearing or status conference. If a transcript of the conference is not prepared, the presiding officer shall ensure that a written summary of the conference is prepared and served on all parties.

R 792.10429 Evidence; documents and exhibits.

Rule 429. (1) When the evidence consists of technical matters or figures so numerous as to make oral presentation difficult to follow, it shall be presented in exhibit form, supplemented and explained, but not duplicated by testimony.

(2) Documentary exhibits shall be on 1 side only, on paper not exceeding 8 1/2 inches x 11 inches, and have a sufficient margin for binding, preferably a margin of 1 1/2 inches on the left side of each sheet. A larger exhibit shall be folded to not more than 8 1/2 inches x 11 inches, if practicable. An exhibit of 2 or more sheets shall be stapled together and a notation made at the top of the first sheet as to the number of sheets contained in the exhibit. Each page of the exhibit shall be numbered. An exhibit shall show, at the top right-hand corner, the docket number of the proceeding and provide space for the name of the witness and the number and date of the exhibit. Except as otherwise directed by the commission or the presiding officer, all exhibits offered in a proceeding shall be numbered sequentially regardless of the identity of the party offering them. The number of the exhibit shall be preceded with a letter indicating the identity of the party offering it; for example, "A" for applicant, "I" for intervenor, ~~"P" for protestant,~~ “R” for respondent, and "S" for the staff.

(3) A party introducing an exhibit shall furnish copies to all parties and such additional copies as the presiding officer may direct.

(4) Nothing in this rule shall prohibit the use by a witness of charts, graphs, pictures, or other means of visual demonstration that are large enough to be viewed by the presiding officer and all persons in the hearing room; however, when charts, graphs, pictures, or other means of visual demonstration are used, copies conforming to the requirements of subrule (2) of this rule shall be provided to all parties and the presiding officer, together with such additional copies as the presiding officer may direct, unless the provision of copies would, in the judgment of the presiding officer, be impracticable.

(5) Documentary evidence may be submitted after the close of the record by stipulation of the parties and with the approval of the presiding officer **or the commission**.

(6) Written or printed documents, maps, charts, graphs, pictures, or other means of visual demonstration that are received in evidence shall not be returned to the parties, except upon approval of the commission.

R 792.10430 Evidence; testimony in written form.

Rule 430. (1) ~~Direct~~ **T**estimony of a witness under oath shall be offered in written form, except ~~in motor carrier cases or~~ as otherwise provided by the commission or the presiding officer. ~~In motor carrier cases, the presiding officer may require that direct testimony be offered in written form.~~ Unless otherwise ordered by the presiding officer, the testimony shall be **electronically** filed with the commission and a copy **electronically** served on each party and the presiding officer not less than 7 days in advance of the session of the proceeding at which it is to be offered**.** ~~if~~ **If** all parties in attendance on the day on which the testimony is offered agree, any part of the 7 days may be waived. In the absence of agreement, the presiding officer may permit the offering of the testimony after providing all parties who are present not less than 24 hours to examine it, unless, for good cause, the presiding officer finds a shorter time to be reasonable.

(2) The presiding officer may authorize any witness to present oral direct testimony.

(3) In any proceeding, a witness whose testimony is submitted in written form shall be made personally available for cross-examination at the time directed by the presiding officer, unless all parties in attendance on that day waive cross-examination of the witness. If the witness whose testimony is submitted in written or exhibit form is not made available for cross-examination, the testimony shall not be received in evidence, except by stipulation of all parties in attendance on the day the testimony is submitted and with the approval of the presiding officer or as otherwise provided by law.

(4) All testimony in written form shall include page and line numbers and shall be in question and answer form.

R 792.10432 Motion practice.

Rule 432. (1) In a pending proceeding, a request to the commission or presiding officer for a ruling or order, other than a final order, shall be by motion. Unless made during a hearing, a motion shall be in compliance with all of the following provisions:

(a) Be in writing.

(b) State with particularity the grounds and authority on which the motion is based.

(c) State the relief or order sought.

(d) Be signed **or electronically signed** by the party or the party's attorney.

(2) **Except as provided under subrule (7) or this rule,** ~~U~~**u**nless a different time is set by the commission or presiding officer or unless the motion is one that may be heard ex parte, a written motion, notice of the hearing on the motion, and any supporting brief or affidavits shall be served as follows:

(a) Not less than 9 days before the hearing, if served ~~electronically or~~ by mail **or courier delivery service**.

(b) Not less than 7 days before the hearing, if served electronically or by delivery to the attorney or party under Michigan court rule 2.107(c)(1) or (2).

(3) Unless a different time is set by the commission or presiding officer, any response to a motion, including a brief or an affidavit, shall be served as follows:

(a) Not less than 5 days before the hearing, if served ~~electronically or~~ by mail **or courier delivery service**.

(b) Not less than 3 days before the hearing, if served electronically or by delivery to the attorney or party under Michigan court rule 2.107(c)(1) or (2).

(4) Motions shall be noticed for hearing at the time designated by the commission or presiding officer.

(5) When a motion is based on facts not appearing on the record, the commission or presiding officer may hear the motion on affidavits presented by the parties or may direct that the motion be heard wholly or partly as oral testimony or deposition.

(6) The commission or presiding officer may limit oral arguments on motions and may require the parties to file briefs in support of, and in opposition to, a motion. The commission may dispense with oral argument on matters brought before the commission.

(7) Except for good cause, a motion to extend time must be filed and served before the expiration of the period originally prescribed.

(8) A motion addressed to the commission shall be filed and served on all parties and the director of the regulatory affairs division. Any responsive pleading shall be filed and served on all parties and the director of the regulatory affairs division within 7 days after the motion is filed unless otherwise provided by these rules.

R 792.10433 Appeals to commission from rulings of presiding officers.

Rule 433. (1) During the course of a proceeding, a party may appeal a ruling of the presiding officer by filing an application for leave to appeal the ruling to the commission. Unless otherwise provided by the presiding officer, the application shall be filed within 14 days after an oral ruling or service of a written ruling and any response shall be filed within 14 days after service of the application.

(2) The commission will grant an application and review the presiding officer's ruling if any of the following provisions apply:

(a) A decision on the ruling before submission of the full case to the commission for final decision will materially advance a timely resolution of the proceeding.

(b) A decision on the ruling before submission of the full case to the commission for final decision will prevent substantial harm to the appellant or the public-at-large.

(c) A decision on the ruling before submission of the full case to the commission for final decision is consistent with other criteria that the commission may establish by order.

(3) An offer of proof shall be made in connection with an appeal of a ruling excluding evidence. The offer of proof shall be made on the hearing record. If the ruling excluded oral testimony, the offer of proof shall consist of a statement of the substance of the evidence that the appellant contends would be established by the testimony. If the ruling excluded written evidence or evidence that refers to documents or records, the offer of proof shall consist of a copy of the evidence, documents, or records. **If the ruling excluded prefiled testimony or rebuttal testimony, the offer of proof shall consist of a copy of the testimony or rebuttal testimony.**

(4) The application shall be supported by a clear and concise brief, pursuant to the provisions of R 792.10434, stating the basis for the appeal and showing that it complies with the provisions of this rule. The brief shall be supported by specific factual allegations as appropriate.

(5) The commission's failure to grant the application does not bar a party from asking the commission to consider the presiding officer's ruling on final disposition of the proceeding. A party's failure to file an application for leave to appeal does not constitute a waiver of the right to challenge any ruling of the presiding officer either in a brief or in exceptions to a proposal for decision.

R 792.10434 Oral arguments and briefs.

Rule 434. (1) Oral arguments may be made before the commission or the presiding officer at the discretion of the commission or the presiding officer, respectively. Oral arguments before the presiding officer shall be requested before the close of the record. Oral arguments before the commission shall be requested not later than the date for filing of exceptions.

(2) Initial briefs and reply briefs may be filed at the discretion of the parties unless the commission or presiding officer requires the filing of briefs and reply briefs by all parties. Unless otherwise provided, initial briefs shall be filed within 21 days after the date of the filing of the last volume of the transcript, and reply briefs shall be filed within 14 days after the date for filing initial briefs.

(3) Briefs containing factual allegations claimed to be established by the evidence shall include a reference to the specific portions of the record where the evidence may be found. Materials incorporated by reference shall be attached. Any factual or legal issue that is not addressed in a party's initial brief shall not be addressed by that party in a reply brief, except in response to another party's brief. **Reply briefs must be confined to rebuttal of the arguments contained in other parties' initial briefs. The presiding officer may strike any brief that does not comply with this rule.**

(4) Proposed findings of fact, if any, shall be filed not later than the date for filing initial briefs. Each proposed finding of fact shall be numbered, stated clearly, and limited to a single proposed fact.

R 792.10435 Exceptions to proposals for decision.

Rule 435. (1) Unless otherwise provided, exceptions to a proposal for decision shall be filed **and served on all parties and the director of the regulatory affairs division** within 21 days after service of the proposal for decision, and replies to exceptions, if provided for, shall be filed **and served on all parties and the director of the regulatory affairs division** within 14 days after the date for filing exceptions.

(2) If a party does not file exceptions to a proposal for decision within the time permitted by this rule, any objection to the proposal for decision is waived. If a party does not object to a part of a proposal for decision, any objection by the party to that part of the proposal for decision is waived.

(3) Exceptions and replies to exceptions shall be supported by reasoned discussion of the evidence and the law. Exceptions and replies to exceptions containing factual allegations claimed to be established by the evidence shall include a reference to the specific portions of the record where the evidence may be found. Materials incorporated by reference shall be attached.

(4) Exceptions shall clearly and concisely recite the specific findings of fact and conclusions of law to which exception is taken or the omission of, or imprecision in, specific findings of fact and conclusions of law to which the party ~~accepts~~ **takes exception**.

SUBPART D. REOPENINGS AND REHEARINGS

R 792.10436 Reopening of proceedings.

Rule 436. (1) A proceeding may be reopened for the purpose of receiving further evidence when a reopening is necessary for the development of a full and complete record or there has been a change in conditions of fact or law such that the public interest requires the reopening of the proceeding.

(2) After providing due notice and an opportunity for the parties to be heard, the presiding officer, upon his or her own motion or upon motion of any party, may reopen the proceeding at any time before the date for the filing of exceptions to a proposal for decision or, if provided for, replies to exceptions. After the date for filing exceptions or replies to exceptions and until the expiration of the statutory time period for filing a petition for rehearing, the commission may reopen a proceeding ~~upon its own motion or motion of any party~~. **The commission may reopen a proceeding after the time period for filing a petition for rehearing for good cause.**

(3) Within 21 days after service of a motion to reopen a proceeding, any party may file an answer. Any party failing to do so shall be considered to have waived objection to the granting of the motion. As soon as practicable after the time for filing answers to a motion to reopen, the presiding officer or the commission shall, in writing, grant or deny the motion. The presiding officer or the commission may provide for hearing and oral argument on a motion to reopen.

SUBPART E. COMPLAINTS

R 792.10439 Complaints; limited matters; initiating complaint.

Rule 439. A complaint shall be limited to matters involving alleged unjust, inaccurate, or improper rates or charges or unlawful or unreasonable acts, practices, or omissions of a utility ~~or motor carrier~~, including a violation of any commission rule, regulation, **tariff filed or published by a utility,** or order~~, including a tariff filed or published by a utility or motor carrier,~~ or a violation of a statute administered or enforced by the commission. A complaint may be either formal or informal and may be made by a person having an interest in the subject matter of the complaint or may be made by the commission on its own motion or by the staff, subject to applicable statutory standards.

R 792.10440 Informal complaints.

Rule 440. The commission shall attempt to resolve as an informal complaint ~~on~~ any matter brought to its attention by any person not requesting initiation of a contested case proceeding.

R 792.10441 Formal complaints; content.

Rule 441. **(1) A formal complaint may be filed on paper or may be filed by e-mail in accordance with instructions on the commission's website. Formal complaints filed by corporations shall be electronically filed in the commission's e-docket system. Complaints filed by residential customers must be processed under the provisions of this subpart of these rules. Complaints filed by sole proprietors may be processed under this subpart of these rules in accordance with instructions from the executive business section.**

~~(1)~~ **(2)** A formal complaint **must** ~~shall be in writing and shall~~ set forth all of the following:

(a) The name and address of the complainant and the complainant's attorney, if any.

(b) The name and address of the respondent.

(c) The interest of the complainant in the subject matter.

(d) A concise statement of the facts on which the complainant relies in requesting relief, with the specific allegations necessary to reasonably inform the respondent of the nature of the claims the respondent is called upon to defend, with specific reference ~~where practicable~~ to the section or sections of all statutes, rules, regulations, orders, and tariffs upon which the complainant relies in filing a complaint.

(e) A demand for a contested case proceeding.

(f) A clear and concise statement of the relief sought and the authority upon which the complainant relies for the relief.

(g) The signature of the person or persons filing the complaint.

(h) A specification regarding whether the complaint will be addressed by e-mail filing and service or by paper filing and service.

~~(2)~~**(3)** Two or more complainants may join in 1 complaint if their complaints are against the same respondent, involve substantially the same purposes and subjects, and are predicated upon substantially similar facts. This rule shall not be construed to authorize class actions in proceedings before the commission.

(4) If a complaint is found prima facie, and the complainant elects to proceed using e-mail filing and service, the filings in the complaint proceeding will not be available

to the public on the commission's website. In addition to e-mail service to the parties, all documents shall be e-mailed to the executive business section in accordance with the instructions found on the commission's website.

(5) If a complaint is found prima facie, and the complainant elects to file and serve documents on paper, the filing and service of notices, pleadings, motions, and other documents shall be made by deposit with the United States postal service for first-class mailing, courier delivery service or by delivery in person. In all residential complaint cases to be processed on paper, a party shall file an original and 3 copies of each document or pleading.

R 792.10442 Formal complaints; examination; rejection.

Rule 442. **An administrative law specialist assigned by the director of the regulatory affairs division shall review a complaint to determine if the complaint states a prima facie case within the commission's jurisdiction.** If the commission finds that a complaint does not state a prima facie case or does not conform to these rules, it shall notify the complainant or the complainant's attorney that the complaint is rejected, give the reasons for the rejection, and return the complaint. Nothing in this rule prohibits a complainant whose complaint has been rejected from amending and refiling the complaint. Upon the filing of a formal complaint that conforms to the provisions of R 792.10441 **of these rules** and states a prima facie case, the commission, acting through its staff, ~~will~~ **may** commence an investigation of the matters raised in the complaint.

R 792.10443 Formal complaints; service; offers of relief; answers.

Rule 443. (1) If the complaint ~~does~~ state**s** a prima facie case and conforms to the provisions of these rules, the commission shall serve upon the respondent, a notice, accompanied by a copy of the complaint, requiring that the matter complained of be satisfied or that the complaint be answered within 21 days after the date of service of the notice or within such time as the commission may, for good cause, provide.

(2) Every answer to a formal complaint shall specifically admit or deny each material allegation contained in the complaint and shall also set forth any facts relied upon by the respondent as constituting an affirmative defense. If the respondent lacks knowledge or information sufficient to form a belief as to the truth of an allegation contained in the complaint, the respondent shall indicate this lack of knowledge or information in the answer, which shall operate as a denial.

SUBPART F. SPECIFIC PROCEEDINGS

R 792.10447 Public utilities; new construction.

Rule 447. (1) An entity listed in this subrule shall file an application with the commission for the necessary authority to do **any of** the following:

(a) A gas or electric utility within the meaning of the provisions of 1929 PA 69, MCL 460.501 to 460.506, that wants to construct a plant, equipment, property, or facility for furnishing public utility service for which a certificate of public convenience and necessity is required by statute.

(b) A natural gas pipeline company within the meaning of the provisions of 1929 PA 9, MCL 483.101 to 483.120, that wants to construct a plant, equipment, property, or facility for furnishing public utility service for which a certificate of public convenience and necessity is required by statute.

(c) A corporation, association, or person conducting oil pipeline operations within the meaning of 1929 PA 16, MCL 483.1 to 483.9, that wants to construct facilities to transport crude oil or petroleum or any crude oil or petroleum products as a common carrier for which approval is required by statute.

(2) The application required in subrule (1) of this rule shall set forth, or by attached exhibits show, all of the following information:

(a) The name and address of the applicant.

(b) The city, village, or township affected.

(c) The nature of the utility service to be furnished.

(d) The municipality from which the appropriate franchise or consent has been obtained, if required, together with a true copy of the franchise or consent.

(e) A full description of the proposed new construction or extension, including the manner in which it will be constructed.

(f) The names of all utilities rendering the same type of service with which the proposed new construction or extension is likely to compete.

(g) An environmental impact assessment, or environmental impact statement if appropriate that addresses the environmental effects of the construction or extension.

(h) Information demonstrating that the proposed construction shall comply with all applicable safety and technical standards.

(3) A utility that is classified as a respondent pursuant to R 792.10402 may participate as a party to the application proceeding without filing a petition to intervene. It may file an answer or other response to the application.

SUBPART G. DECLARATORY RULINGS

R 792.10448 Declaratory rulings.

Rule 448. (1) Any person may request a declaratory ruling as to the applicability to an actual state of facts of a statute administered by the commission or of a rule or order of the commission, pursuant to sections 33 and 63 of the act, MCL 24.201, MCL 24.328. A request for a declaratory ruling shall contain, or by attached exhibits show, all of the following:

(a) A complete, accurate, and concise statement of the facts or situation upon which the request is based.

(b) A concise statement of the issues presented.

(c) Specific reference to all statutes, rules, and orders to which the request relates.

(d) An analysis by the person's legal counsel of the issues presented and a proposed conclusion, or the person's analysis of the issues presented and a proposed conclusion.

(2) The commission may require that notice of the request for declaratory ruling be provided and may require a contested case proceeding instead of issuing a declaratory ruling.

(3) The decision to issue a declaratory ruling is within the discretion of the commission **and is binding only on the applicant and the commission**.

R 792.10450 Delegations to the commission staff.

Rule 450. In instances where the presiding officer has transmitted a case to the commission, the director of the regulatory affairs division is authorized to approve uncontested scheduling changes, stipulations, and other minor requests by parties to the proceedings without notice, a hearing, or a commission order.

PART 5: DEPARTMENT OF TRANSPORTATION

SUBPART A. BUREAU OF HIGHWAY TECHNICAL SERVICES – HEARINGS ON TRAFFIC CONTROL ORDERS

R 792.10501 General rules.

Rule ~~1~~501. The general rules of the employment relations commission, R 423.101 to R 423.484, govern practice and procedure in administrative hearings conducted by the ~~Michigan administrative~~ hearing system in cases arising under LMA, 1939 PA 176, MCL 423.1 to 423.30, and PERA, 1947 PA 336, MCL 423.201 to 423.217, with the exclusion of parts 2 and 3 of those rules.

PART 6: DEPARTMENT INSURANCE AND FINANACIAL SERVICES

R 792.10601 Definitions **Rescinded.**

Rule 601. (1) As used in these rules:

(a) "Code" means insuance code of 1956, 1956 PA 218, MCL 500.100 to 500.150.

(b) "Director" means the director of the Michigan department of insurance and financial services.

R 792.10602 Hearing; adjournment; motion. **Rescinded.**

Rule 602. A hearing may be adjourned only upon an order of the administrative law judge. The administrative law judge may order an adjournment on his or her own initiative or upon motion of a party. The administrative law judge shall order an adjournment upon stipulation of the parties. Before a hearing, a motion for adjournment shall be made in writing and shall state with specificity the reasons an adjournment is necessary.

R 792.10603 Application for intervention; filing. **Rescinded.**

Rule 603. Any person seeking to intervene as a party may file an application to intervene. An application for the intervention shall state the grounds for intervention and the supporting facts known at the time of application in a manner that fairly advises the parties and the administrative law judge of any issues of fact or law with which the applicant is concerned. The person who files the application shall attach copies of all the proofs of service for papers served upon parties to the proceeding.

R 792.10604 Application for intervention; answers; date of filing. **Rescinded.**

Rule 604. A party to a proceeding may file an answer to an application for intervention. An application shall not be granted until all parties have had an opportunity to answer the application. An answer shall be filed within 10 days after the date of service of the application or within any reasonable and shorter period of time established by an order of the administrative law judge. If either the person seeking to intervene or a party files a motion for oral argument on the application, the administrative law judge shall grant the motion. Within 15 days after the filing of an application or within 5 days after any oral argument on the application, the administrative law judge shall rule on the application.

R 792.10605 Depositions; interrogatories; discovery. **Rescinded.**

Rule 605. The taking and use of depositions, interrogatories, and discovery shall be in the same manner and scope as in the circuit courts of the state pursuant to the Michigan general court rules or as otherwise provided by law. Where a party fails to comply with this rule, on motion by the party seeking to take and use depositions, interrogatories, or discovery, the administrative law judge may, consistent with the provisions of the Michigan general court rules and other applicable law, issue an order to effect this rule.

R 792.10606 Refusal to make discovery; order directing compliance; effect of refusal to obey order. **Rescinded.**

~~Rule 606. If a party refuses to comply with an order made under R 792.10605 the administrative law judge may, on his or her own initiative or on motion of a party, issue an order including, but not limited to, any of the following:~~

~~(a) An order that the facts sought by discovery shall be taken to be established for purposes of the proceeding in accordance with the claim of the party obtaining the order.~~

~~(b) An order refusing to allow the noncompliant party to support or oppose designated claims or defenses, or prohibiting the noncompliant party from introducing into evidence designated documents, things, or testimony.~~

~~(c) An order striking pleadings or parts of pleadings.~~

~~(d) An order staying further proceedings until compliance with the order is established.~~

~~(e) An order recommending dismissal of the proceeding or part of the proceeding.~~

~~(f) An order recommending a decision by default against the noncompliant party.~~

R 792.10607 ~~Interlocutory appeals.~~ **Rescinded.**

~~Rule 607. A party may petition the director to reverse an interlocutory order of the administrative law judge. The petition shall state with specificity the factual and legal grounds for the appeal and why there is good cause for the director to rule immediately upon the matter. Other parties shall have 7 days from the date of service of the petition to file a reply, unless the director specifies a shorter or longer response period. If the director finds there is good cause to rule immediately upon the matter, the director shall issue an order affirming or reversing the interlocutory order or shall issue an order requiring additional argument on the matter.~~

R 792.10608 ~~Proposal for decision; exceptions; written arguments.~~ **Rescinded.**

~~Rule 608. The administrative law judge shall specify the date by which a party may file exceptions and written arguments supporting exceptions. Written argument in support of an exception shall specify the facts and the law upon which the party relies and shall, if reference is made to the transcript, include page and volume numbers.~~

R 792.10609 ~~Request for rehearing; objections.~~ **Rescinded.**

~~Rule 609. A request for rehearing pursuant to section 87 of 1969 PA 306, MCL 24.287 shall state the grounds upon which the moving party relies. A party shall file any objections to a request for rehearing within 10 days of being served with the request for rehearing.~~

PART 8: ~~DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS~~
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU**,**
BUREAU OF PROFESSIONAL LICENSING AND
BUREAU OF CONSTRUCTION CODES

R 792.10801 Definitions.

Rule 801. (1) As used in these rules:

(a) “Administrator” means the bureau director or his or her designee.

(b) “Board” has the same meaning as defined in section 103 of the occupational code, 1980 PA 299, MCL 339.103.

(c)" Bureau" means the securities & commercial licensing bureau within the department of licensing and regulatory affairs.

(d) “Commission” has the same meaning as defined in section 10 of the unarmed combat regulatory act, 2004 PA 403, MCL 338.3610.

(e)"Compliance conference" means the conference provided for in accordance with section 92 of the act, MCL 24.292, and the licensing law.

(f) "Days" means calendar days.

(g) "Lapsed" license or registration means a license or registration a person did not renew on or before the expiration date.

(h) "Licensing law" means a law under which the bureau issues a license, registration, or other authorization to practice an occupation or profession or render other services.

(i) Licensing law, includes all the following:

(A)The occupational code, 1980 PA 299, MCL 339.101 to 339.2919.

(B)The unarmed combat regulatory act, 2004 PA 403, MCL 338.3610 to 338.3663.

(C)The professional employer organization regulatory act, 2010 PA 370, MCL 338.3721 to 338.3747.

(D)The security alarm systems act, 2012 PA 580, MCL 338.2181 to ~~to~~ 338.2187.

(E)The private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1092.

(F) The forensic polygraph examiners act, 1972 PA 295, MCL 338.1701 to 338.1729.

(G) The professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851.

(H) The proprietary schools act, 1943 PA 148, MCL 395.101 to 395.103.

(I) The prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

(J) The immigration clerical assistant act, 2004 PA 161, MCL 338.3451 to 338.3471.

(K) The vehicle protection product act, 2005 PA 263, MCL 257.1241 to 257.1263.

(L) The carnival-amusement safety act of 1966, 1966 PA 225, MCL 408.651 to 408.670.

(M) The ski area safety act of 1962, 1962 PA 199, MCL 408.321 to 408.344.

(ii) Licensing law does not include registrations issued under any of the following:

(A) The cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543.

(B) The uniform securities act, 2008 PA 551, MCL 451.2101 to 451.2105.

(C) ~~The living care disclosure act, 1976 PA 440, MCL 554.801 to 554.844.~~ **The Continuing Care Community Disclosure Act, 2014 PA 448, MCL 554.901 to 554.993.**

(i) "Party" means a person, agency, or designated agent of the bureau named, admitted, or properly seeking and entitled of right to be admitted, as a party in a contested case.

(j) “Person” means an individual, sole proprietorship, partnership, limited liability company, association, corporation, common law trust, or a combination of those legal entities. Person also includes a department, board, school, institution, establishment, or governmental entity.

(k) "Revoked license or registration” means that a person's authorization or privilege to engage in an occupation or profession regulated under the licensing law is terminated and shall not be restored, reinstated, or renewed, except that an application for a new license or reinstatement of a license may be considered by the bureau and relevant board or commission, if applicable, as permitted under the licensing law.

(l) "Suspended license or registration” means that a person's authorization or privilege to engage in an occupation or profession regulated under the licensing law is temporarily withdrawn and shall not be restored, reinstated, or renewed until a term, condition, or requirement imposed upon the person by the bureau or relevant board or commission, if applicable, has been met or until a specified period of time has elapsed.

(m) "Surrendered license or registration” means a license or registration that a person voluntarily agrees to give up and cease using a license or registration, regardless of whether the person returns the physical license or registration document to the department bureau, or a license or registration that was returned to the bureau before, during, or after an investigation or audit was conducted by the bureau.

(2) Except as provided in subrule (1) of this rule, a term defined in the act, MCL 24.201 to 24.328, or the licensing law shall have the same meaning when used in these rules.

R 792.10810 Petition to dissolve suspension order; hearing; record.

Rule 810. (1) A person whose license or registration has been summarily suspended shall petition for dissolution of the order before seeking judicial review. Upon receiving a petition the bureau shall immediately request an expedited hearing before an administrative law judge.

(2) Prior to the date of the scheduled hearing, the parties may file with the administrative law judge a written stipulation to dissolve the order of summary suspension, based on their stated agreement that the public health, safety and/or welfare does not require emergency action and continuation of the summary suspension. If such a stipulation is filed, the administrative law judge may enter an order dissolving the order of summary suspension and cancel the emergency hearing.

(3) Immediately after the hearing on the petition, the administrative law judge shall issue a written order granting or denying the requested relief.

(4) The administrative law judge shall grant the relief unless he or she finds that sufficient evidence has been produced to support a finding that the public health, safety, and/or welfare requires emergency action and a continuation of the suspension order.

(5) If the licensee or registrant fails to appear at the emergency hearing, the administrative law judge shall find that the public health, safety, and/or welfare requires emergency action and continue the order of summary suspension.

(6) The record created at the hearing shall become a part of the record at any subsequent hearing in the contested case.

PART 9: DEPARTMENT OF ~~COMMUNITY~~ HEALTH **AND HUMAN SERVICES** PROVIDERS
HEARING PROCEDURES

SUBPART B. MEDICAL SERVICES ADMINISTRATION
MSA PROVIDER HEARINGS

R 792.10904 Definitions.

Rule 904. (1) "Adverse action" includes, but is not limited to, all of the following:

(a) A suspension or termination of provider participation in the medical assistance program.

(b) A denial of an applicant's request for participation in the medical assistance program.

(c) A denial, revocation, or suspension of a license or certification issued by the agency to allow a facility to operate.

(d) The reduction, suspension, or adjustment of provider payments.

(e) Retroactive adjustments following the audit or review and determination of the daily reimbursement rates for institutional providers.

(2) "Applicant" means an individual, firm, corporation, association, agency, institution, or other legal entity that has made formal application to participate in the medical assistance program as a provider.

(3) "Delegate" means a person who is authorized to act on behalf of the medical services administration.

(4) "Department" means the Michigan department of ~~community~~ health **and human services**, its officials, or agents.

(5) "Director" means the director of the Michigan department of ~~community~~ health **and human services**.

(6) "Final determination notice" means a notice of an adverse action that includes the action to be taken; the date of the proposed action; the reason for the action; the statute, rule, or guideline under which the action is taken; and the right to a hearing. **Prior to the taking of an adverse action, the department shall send the provider a final determination notice.**

(7) "Hearing authority" means the person appointed by the director to decide appeals from decisions of an administrative law judge.

(8) "Medical assistance program" means the department's program to provide for medical assistance established by section 105 of 1939 PA 280, MCL 400.105, and title XIX of the federal Social Security Act, 42 ~~U.S.C. section~~ **USC** 1396, et seq.

(9) "Medical services administration" means the unit within the department of ~~community~~ health **and human services** created by section 105 of 1939 PA 28, MCL 400.105, and title XIX of the federal social security act, 42 ~~U.S.C. §~~ **USC** 1396.

(10) "Medical services administration representative" means a person, agency, or entity authorized to review the patient care rendered by a provider or applicant or that is authorized to make audits and reviews of the records, procedures, reports, accounting methods, and billing practices of the provider or applicant, as well as the propriety of these documents or actions.

(11) “Notice,” when notification by the department is indicated or required, means notice that meets the requirements of section 71(2) of the act, MCL 24.271(2). Notification shall be by certified or registered mail, with return receipt requested, to the last address of the provider or other party on file with the department.

(12) “Provider” means an individual, firm, corporation, association, agency, institution, or other legal entity which is providing, or has been approved to provide, medical assistance to a recipient pursuant to the medical assistance program.

(13) “Recipient” means an individual receiving medical assistance through the department.

R 792.10905a Formal hearing.

Rule 905a. (1) A provider or applicant is entitled to a formal hearing pursuant to chapter 4 of 1969 PA 306, MCL 24.271 to 24.287, in any case in which there has been a final determination of an adverse action as defined in R 792.10904(1).

(2) A written request for a formal hearing shall be received within 30 calendar days of the mailing date of a notification of intent to terminate or final determination notice. In the case of notification of intent to terminate, the provider's participation shall automatically terminate as of the 30th calendar day after date of notification. This termination shall then be a final and binding administrative determination.

(3) The request shall identify all of the following:

(a) Those aspects of the determination with which the provider or applicant is dissatisfied.

(b) An explanation of why the provider or applicant believes the determination on those matters is incorrect.

(c) The dollar amount, if any, involved.

(4) The request shall be submitted with any documentary evidence the provider or applicant considers necessary to support its position.

SUBPART C. LEGISLATION AND POLICY CERTIFICATE OF NEED

R 792.10907 Hearing request; eligibility; effect.

Rule 907. (1) An applicant that receives either a proposed decision of the medical services administration that disapproves 1 or more certificates of need or a notice of reversal by the director of the department a proposed decision that is an approval may request a hearing to demonstrate that the completed application filed by the applicant meets the requirements for approval under part 222 of ~~of~~ the public health code 1978 PA 368, MCL 333.22201 to 333.22260.

(2) The filing of a request for hearing shall stay issuance of a final decision during the pendency of the hearing before the hearing system.

R 792.10909 Scope of hearing.

Rule 909. Unless the bureau determines that the applicant demonstrated a need for the proposed project pursuant to section 22225(1) of the public health code, 1978 PA 368, MCL 333.22225, the scope of the hearing shall be limited to demonstrating compliance with MCL 333.2225(1). If the applicant has demonstrated compliance **with MCL** ~~withMCL~~ 333.225(1), then the scope of the hearing may involve demonstrating compliance with MCL 333.2225(2).

PART 10: DEPARTMENT OF ~~HUMAN SERVICES & DEPARTMENT OF COMMUNITY~~ HEALTH **AND HUMAN SERVICES**
SUBPART A. PUBLIC BENEFITS

R 792.11001 Scope.

Rule 1001. (1) The rules in this part apply to administrative hearings conducted by the hearing system for the department of **health and** human services ~~and the department of community health~~, pursuant to the social welfare act, 1939 PA 280, MCL 400.1 to 400.122.

(2) In addition to specific agency policy concerning the conduct of hearings under the Code of Federal Regulations Titles 7, 42, and 45, authority for the promulgation of these rules is found in the social welfare act 1939 PA 280, MCL 400.1 to 400.122 and the act.

R 792.11002 Right to hearing.

Rule 1002. (1) An opportunity for a hearing shall be granted to an applicant **for, or recipient of, department benefits** who requests a hearing because ~~his or her~~ **the individual has a** claim for assistance **that** is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

(2) A hearing shall not be granted when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant computation.

(3) A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the agency customer service unit.

R 792.11002a Request for hearing; timeliness.

Rule 1002a. (1) A request for hearing shall be in writing and signed by the petitioner or, on the petitioner's behalf, an authorized hearing representative.

(2) The request may be filed with the state department office in Lansing or a local county office. When filed with the local county department office, it shall be forwarded immediately to the state department office.

(3) Freedom to make a request for a hearing shall not be limited or interfered with in any way. The agency shall assist the petitioner to submit and process his or her request.

(4) The petitioner shall be provided 90 days from the mailing of the department's notice of case action to request a hearing; or in the case of a Medicaid managed care organization's notice of resolution of adverse benefit determination, 120 days.

(5) When a petitioner requests a hearing within the timely notice period, assistance shall not be suspended, reduced, discontinued, or terminated until a decision is rendered after a hearing, unless any of the following occurs:

(a) A determination is made at the hearing by the administrative law judge that the sole issue is one of state or federal law or policy.

(b) A subsequent change affecting a recipient's grant occurs while the hearing decision is pending, and a recipient fails to request a hearing after notice of the subsequent change.

(c) A change in food benefits was in connection with expiration of a certification period.

R 792.11003 Notice of hearing.

Rule 1003. (1) Notice of the time, date, and place of hearing shall be mailed to the ~~claimant~~ **petitioner** and his **or her authorized hearing** representative of record and shall be sent electronically to the county department or local agency office at least 10 days before the date of hearing except when otherwise required by law. At the election of the ~~claimant~~ **petitioner** or his or her **authorized hearing** representative of record, service may be made electronically.

(2) A notice shall contain the section of the law and rule involved.

R 792.11004 Group hearings.

Rule 1004. The agency may respond to a series of individual requests for a hearing by conducting a single group hearing where the sole issue is one of state or federal law or policy or change in federal or state law. An individual ~~claimant~~ **petitioner** shall be permitted to present his or her own case or be represented by his or her authorized **hearing** representative.

R 792.11005 Denial or dismissal of request for hearing.

Rule 1005. (1) The hearing system shall deny or dismiss the request for a hearing under any of the following:

(a) A request is withdrawn by a ~~claimant~~**petitioner**, counsel, ~~or petitioner~~, or a ~~claimant's~~ **petitioner's** authorized **hearing** representative in writing prior to the signing of the final decision and order.

(b) The issue is one of state or federal law, requiring automatic grant adjustments for classes of recipients.

(c)A ~~claimant~~ **petitioner** abandons the hearing.

(d)The administrative law judge has no jurisdiction over the matter.

(e) An issue is not appealable as authorized by R ~~400.903~~ **792.11002**.

(2) Abandonment occurs if a ~~claimant~~ **petitioner or the petitioner's authorized hearing representative**, without good cause, fails to appear ~~by himself or herself, or by his or her authorized representative~~ at the scheduled hearing or obstructs the hearing process such that the administrative law judge is unable to make a clear and accurate record of the proceedings or otherwise conduct the hearing.

(3) A party may request to vacate a dismissal for good cause shown. The request must be in writing, signed, and received by the hearing system within 7 calendar days of the date the hearing system issues the dismissal order.

R 792.11006 Location of hearing; hearing conducted with communication equipment.

Rule 1006. (1) A hearing shall be conducted at a reasonable time, date, and place. Unless prohibited by federal regulation, a hearing shall be conducted with communication equipment. For the purposes of this rule, a hearing conducted with communication equipment shall mean a hearing held by telephone, video conferencing, or by other electronic media.

(2) For a hearing conducted with communication equipment, both the ~~claimant~~ **petitioner** and the department of **health and** human services shall submit all documentary evidence to be considered by an administrative law judge to the Lansing office of the hearing system no later than 7 days before the scheduled hearing date. For good cause shown, an administrative law judge may permit additional evidence to be submitted, but may decline to accept additional evidence at or following the hearing.

(3) A party may request an in-person hearing in writing at least 7 days before the scheduled hearing. If approved by a managerial-level administrative law judge, the hearing shall be converted into an in-person hearing and scheduled for a reasonable time, date, and place.

R 792.11007 Considerations.

Rule 1007. A hearing shall include consideration of all of the following:

(a) An agency action, or failure to act with reasonable promptness, on a claim for financial or medical assistance, that includes undue delay in reaching a decision on eligibility or in making a payment, refusal to consider a request for or undue delay in making an adjustment in payment, or discontinuance, termination, or reduction of such assistance.

(b) An agency decision regarding any of the following:

(i) Eligibility for financial or medical assistance in both initial and subsequent determinations.

(ii) Amount of financial or medical assistance or change in payments.

(iii) The manner or form of payment.

~~(iv) The denial, limitation, or revocation of a license.~~

R 792.11008 Rights of parties.

Rule 1008. A ~~claimant~~ **petitioner** or his or her authorized **hearing** representative has the right to all the following:

(a) To examine the contents of his or her file and all documents and records to be used by the agency at the hearing at a reasonable time before the date of the hearing as well as during the hearing.

(b) ~~To present a case with the aid of an authorized representative. A local agency office or county agency office or a state agency division involved in a hearing has the right to be represented by legal counsel and other representatives, including the county director or division head, and staff or former staff members directly involved in the issue presented. The regional office staff shall be available to assist the claimant or authorized representative.~~ **To present a case with the aid of an authorized hearing representative of his or her choosing and at his or her expense. The department may be represented in any public benefits hearing by an employee or agent of the department.**

(c) To be represented by legal counsel, ~~or other person of choice,~~ at the ~~claimant's~~ **petitioner's** expense.

(d) To receive the assistance of interpreters.

(e) To barrier-free access to the hearing site.

(f) To bring witnesses.

(g) To establish all pertinent facts and circumstances.

(h) To advance any relevant arguments without undue interference.

(i) To question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

R 792.11010 Subpoena.

Rule 1010. (1) Upon a showing of good cause, the administrative law judge shall provide a standard subpoena form at the request of a party and shall issue the subpoena authorized by law unless the requester is a licensed attorney, in which case the attorney will be responsible for issuing his or her own subpoena. A request for a subpoena shall include the following:

(a) The name and address of the person whose testimony is required.

(b) If a document is sought (and so long as the identifiable records are not exempt from disclosure by law), what document is to be subpoenaed.

(c) Why the person's presence and document or only the document is needed at the hearing.

(d) How the document or the person's testimony relates to the hearing issue.

(2) The party requesting the subpoena is responsible for serving the subpoena and must pay the attending witness the appropriate fee per day or per half day pursuant to the **current state law** ~~administrative handbook manual legal~~ plus the state travel rate per mile from and to the person's residence in Michigan.

(3) Agency employees shall participate in hearings without a subpoena when their testimony is required. Requests for subpoenas for agency employees will be denied; however, if participation of an identified agency employee cannot be arranged~~. The~~**, the** hearing system will decide whether to require the employee's participation after receiving the following information:

(a) The name and location of the employee.

(b) The reasons the employee's participation is needed.

(c) How the employee's testimony relates to the hearing issue.

(4) If a subpoena is not obeyed, appearance of the subpoenaed individual or production of the subpoenaed records, documents, or books may be enforced as provided by law.

R 792.11011 Withdrawals; adjournments; continuances.

Rule 1011. (1) A request for an adjournment, continuance, or withdrawal may be granted by an administrative law judge for good cause ~~all of the following apply~~:

(a) Good cause includes **unusual, unexpected, or unavoidable circumstances resulting in** the ~~absence~~ **unavailability** of material witnesses or relevant and necessary evidence.

(b) Withdrawals may not be granted on the basis of unwritten proposed departmental action.

(c) Requests for withdrawal shall be in writing and signed by the ~~claimant~~ **petitioner or, if petitioner has an authorized hearing representative, his or her** ~~or~~ authorized **hearing** representative.

(d) Upon review of the withdrawal, the administrative law judge shall generate an appropriate order denying or granting the request**, and if denied, specifying** ~~and~~ the basis for the ~~decision to deny, if so denied,~~ **denial** along with notice that the hearing will be rescheduled **or, if appropriate, held as scheduled**.

(2) A request for an adjournment, continuance, or withdrawal must be submitted to the hearing system in writing and received by the hearing system prior to the date and time of the scheduled hearing.

R 792.11012 Administrative law judges' opinions; exceptions and recommended decisions.

Rule 1012. (1) An administrative law judge's hearing decision and order shall be prepared subsequent to a hearing and shall contain findings of fact, conclusions of law, and, **the decision and order, but** if the administrative law judge has not been delegated final decision-making authority, a recommendation as to the proper decision based exclusively on the testimony and evidence admitted at the hearing.

(2) If a final decision is to be made by the agency director, any party may, within 10 days of the administrative law judge's proposed decision, file exceptions for the consideration of the director. The exceptions shall be mailed to all parties and to the administrative law judge within the allotted time and shall be made a part of the record.

R 792.11013 Hearing decisions.

Rule 1013. (1) The agency shall have discretion to delegate final decision-making authority to the administrative law judge who hears the case or to supervisory administrative law judges in certain cases. Such delegation shall be in writing, shall be dated, and shall clearly specify the scope of the final decision-making authority to be conferred.

(2) A decision of an administrative law judge shall include the following:

(a) Findings of fact based only on evidence admitted at the hearing.

(b) Conclusions of law.

(c) Whether agency policy was appropriately applied.

(d) Whether a finding of disability is appropriate based upon applicable statutes, case law and policy.

(3) The administrative law judge shall make a recommended decision if he or she determines any of the following:

(a) The applicable law does not support agency policy.

(b) Agency policy is silent on the issue being considered.

(c) The issue is of the type enumerated in agency policy calling for a recommended decision with the department director maintaining final decision authority.

(4) The hearing record shall consist of the transcript or recording of testimony and exhibits, or an official report that contains the substance of what transpired at the hearing, together with all exhibits and requests filed in the proceeding and the recommendation of the administrative law judge.

(5) All parties and their representatives shall receive a copy of the administrative law judge's hearing decision or, where appropriate, recommendations along with the director's decision and order.

(6) Prompt, definitive, and final administrative action shall be taken within 90 days of the filing of a request for hearing with the agency, unless otherwise provided by governing state or federal law or rules.

(7) The administrative law judge may issue an amended hearing decision to correct any typographical, mathematical or other obvious error in the hearing decision.

R 792.11014 Retroactivity.

Rule 1014. When a hearing decision is favorable to the ~~claimant~~ **petitioner**, or when the agency decides in favor of the ~~claimant~~ **petitioner** prior to a hearing, the agency shall make retroactive payments promptly pursuant to applicable law and policy.

R 792.11015 Rehearing or reconsideration.

Rule 1015. (1) A party who has received an adverse hearing decision ~~shall~~ **may** file a request for rehearing or reconsideration with the hearing system**. The request must be in writing and received** ~~in writing~~ within 30 days after the decision has been mailed. **The administrative law manager will grant or deny the request for rehearing or reconsideration.**

(2) A rehearing is a full de novo hearing which may be granted when either of the following occurs:

(a) There is newly discovered evidence that existed at the time of the original hearing **that could not be discovered had a reasonable effort been made to do so** and **this evidence** ~~that~~ could affect the outcome of the original hearing decision.

(b) The original hearing record is inadequate for purposes of judicial review.

(3) If **the administrative law manager grants** a rehearing ~~is granted~~, the order granting rehearing shall vacate the hearing decision and order, and order that a de novo hearing be scheduled by the hearing system **with the administrative law judge who issued the hearing decision, unless the administrative law manager determines that the circumstances require it be scheduled with a different administrative law judge. Notice of the rehearing shall be provided to the parties in accordance with R 792.11003**.

(4) A reconsideration is a paper review of the facts, law, and any new evidence or legal arguments and may be granted when the original hearing record is adequate for purposes of judicial review and a rehearing is not necessary, however, **1** or more of the following exists:

(a) Misapplication of manual policy or law in the hearing decision, which led to the wrong conclusion.

(b) Typographical, mathematical, or other obvious error in the hearing decision that affects the substantial rights of the ~~claimant or~~ petitioner.

(c) The failure of the administrative law judge to address in the hearing decision relevant issues raised in the request for hearing.

(5) A request for rehearing or reconsideration must be submitted directly to the hearing system pursuant to the instructions provided at the conclusion of ~~all~~ **the** hearing decision.

(6) The party requesting the rehearing or reconsideration must specify all reasons for the request.

(7) If **the administrative law manager grants a** reconsideration ~~is granted~~, the decision may be modified without further proceedings **by the administrative law judge who issued the hearing decision, unless the administrative law manager determines that the circumstances warrant that the reconsideration be addressed by a different administrative law judge**. ~~If a rehearing is granted, the hearing shall be noticed and conducted in the same manner as an original hearing~~.

(8) A party is provided the opportunity ~~for~~ **to** request ~~for~~ **a** rehearing or reconsideration of the hearing decision of the administrative law judge. Recourse for subsequent review shall be to the appropriate court as identified at the end of the hearing decision.

R 792.11018 Child care and transportation.

Rule 1018. Reimbursement of child care and transportation costs may be available from the hearing system as necessary to ensure that full participation in the hearing process is possible.

(a) ~~Clients~~ **A petitioner** may request reimbursement of transportation and reasonable and necessary child care costs, not to exceed the rates established under the child care program, and transportation for the petitioner to and from the hearing at the standard travel rates shall be reimbursed wherever the total combined cost exceeds $3.00.

(b) The presiding administrative law judge shall certify the need for the costs.

(c) Clients must make the request on the hearing record and provide the administrative law judge the following information:

(i) Their name and address.

(ii) For transportation expense reimbursement, the number of miles traveled round trip for the hearing.

(iii) For child care expense reimbursement, the provider type and a signed and dated receipt from the provider showing the full names and ages of all children for whom care was provided.

SUBPART B. DEBT ESTABLISHMENT

R 792.11019 Scope.

Rule 1019. Administrative hearings related to the establishment of an over issuance and recoupment of benefits shall be conducted pursuant to the act, MCL 24.201 to 24.328, **7 CFR 273.15,** 7 CFR 273.16(e), R 400.3130(5), and R 400.3187(5), in addition to specific agency policy set forth concerning the conducting of hearings under the delegation of authority. Additional jurisdictional authority is found in the social welfare act 1939 PA 280, MCL 400.1 to R 400.21~~, and R 400.903 to R 400.951~~.

R 792.11020 Debt establishment.

Rule 1020. (1) When the agency has determined that an over issuance of benefits has occurred, the agency may elect to establish the existence and amount of the debt through an administrative hearing.

(2) The ~~agency~~ **affected individual** may request ~~hearings~~ **a hearing** for debt establishment and collection purposes.

(3) The hearing decision determines the existence and collectability of a debt to the agency.

(4) The establishment of a debt to the agency by an administrative law judge shall be enforceable in any manner provided by the administrative rule**s** or law in addition to collection action in a court of appropriate jurisdiction.

(5) Notice of the administrative hearing shall be made upon the affected individual by regular mail, personal service, or by publication only if the individual's address is unknown.

(6) Evidence of any over issuance shall include 1 or both of the following:

(a)Written acknowledgment by the individual of an over issuance.

(b)Documentation showing when the over issuance occurred and the amount of over issuance.

(7) For allegations of intentional program violation, the standard of proof is clear and convincing evidence.

R 792.11020a Rehearing or reconsideration.

Rule 1020a. (1) A party who has received an adverse hearing decision may file a request for rehearing or reconsideration with the hearing system. The request must be in writing and received within 30 days after the decision has been mailed. The administrative law manager shall grant or deny the request for rehearing or reconsideration.

(2) The rehearing or reconsideration process shall be the same as in R 792.11015.

SUBPART C. ADOPTION SUBSIDY

R 792.11023 Hearings for post-finalization applications.

Rule 1023. (1) For hearings concerning adoption support subsidy or nonrecurring adoption expenses eligibility requests after the finalization of the adoption, there are certain limited circumstances in which an administrative law judge may grant approval of support subsidy or nonrecurring adoption expenses through the administrative hearing process. An approval may be granted only in cases in which there has been a determination of both of the following:

(a) A specific error was made.

(b) The child's pre-adoptive circumstances met the adoption support subsidy or nonrecurring adoption expenses eligibility requirements at the time of the adoption finalization.

(2) If the child's circumstances did not meet adoption support subsidy or non-recurring adoption expenses eligibility requirements prior to the date of the finalization of the adoption, the presence of an error is not relevant.

(3) If it is determined that a specific error ~~occured~~ **occurred** in a case, the administrative law judge will review the child's circumstances to determine whether the child would have been eligible for an adoption support subsidy or nonrecurring adoption expenses at the time of, or prior to, the adoption finalization. The eligibility policy in the adoption subsidy manual in effect at the time of the child's adoption finalization shall be used to determine eligibility.

(4) If a child's circumstances did not meet eligibility criteria for adoption support subsidy or nonrecurring adoption expenses prior to the date of the court order finalizing the adoption but there is evidence of an error as provided in this rule, eligibility cannot be granted.

R 792.11024 Hearing decisions.

Rule 1024. (1) For adoption support subsidy requests received after adoption finalization, the administrative law judge shall issue a proposal for decision to the agency director and, for all other adoption subsidy matters, shall issue a decision and order.

(2) Copies of the recommended decision and order are sent to the adoption subsidy office and the ~~claimant~~ **petitioner**. In most cases, the ~~claimant~~ **petitioner** has the right to appeal the final decision to probate court within 60 calendar days after the final decision is received. The agency director has 60 calendar days to issue a final decision and order or return the recommended decision to the hearing system for rehearing.

SUBPART D. ~~ADULT~~ **CHILD** FOSTER CARE ~~FACILITY~~ LICENSING ~~AND CHILD CARE ORGANIZATION~~

R 792.11025 Scope.

Rule 1025. Administrative hearings related to ~~adult~~ **child** foster care ~~facility~~ licensing ~~and child care organization~~ issues shall be conducted by authority conferred on the director of the agency by section 2 of 1973 PA 116, MCL 722.112, ~~1979 PA 218, MCL 400.710 to 400.737,~~ and Executive ~~Reorganization~~ Order No**s**. ~~1996-1, MCL 330.3101~~ **2015-4 and 2018-11, MCL 400.227 and MCL 722.110.**

R 792.11026 Right to hearing.

Rule 1026. (1) An applicant for, or holder of, a license issued by the agency is entitled to a hearing based upon the denial, limitation, refusal to renew, or revocation of a license.

(2) A licensing case may be heard in Lansing~~,~~ **or** Detroit~~, or in a county where the petitioner maintains a place of business~~.

(3) A hearing shall include consideration of an agency decision regarding the denial, limitation, or revocation of a license.

SUBPART E. EXPUNCTION HEARINGS

R 792.11027 Scope.

Rule 1027. **(1)** Administrative hearings related to expunction hearings shall be conducted by authority as found in the child protection law, 1975 PA 238, MCL 722.621 to 722.638.

(2) A petitioner may present his or her case with the aid of a representative of his or her choosing and at his or her expense. The department may be represented in any hearing held pursuant to subrule (1) of this rule by any employee or agent of, or attorney for, the department.

R 792.11027a Rehearing or reconsideration.

Rule 1027a. (1) A party who has received an adverse hearing decision may file a request for rehearing or reconsideration with the hearing system. The request must be in writing and received within 30 days after the decision has been mailed. The administrative law manager shall grant or deny the request for rehearing or reconsideration.

(2) The rehearing or reconsideration process shall be the same as in R 792.11015.

PART 11. OCCUPATIONAL SAFETY AND HEALTH

SUBPART A. GENERAL PROVISIONS

R 792.11102 Definitions.

Rule 1102. (1) "Act" as used in this part means the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(2) "Board" means the board of health and safety compliance and appeals within the department of ~~licensing and regulatory affairs~~ **Labor and Economic Opportunity**.

(3) "Citation" means a written communication issued by the department to an employer under section 33 of the act, MCL 408.1033.

(4) "Day" means a calendar day.

(5) "Department" means the department of ~~licensing and regulatory affairs~~ **Labor and Economic Opportunity**.

(6) "Director" means the director of the department of ~~licensing and regulatory affairs~~ **Labor and Economic Opportunity** or the director's authorized representative.

(7) "Executive secretary" means secretary to the board.

(8) "Party" means an applicant for relief, an employer cited or seeking a variance, an affected employee or employees, or their authorized representative, a person allowed to intervene, or department.

(9) "Permanent variance" means a written order issued by a department authorizing an employer to deviate from the requirements of an occupational safety or health standard when protection is provided to employees equal to that which would be provided by compliance with the requirements of the standard.

(10) "Temporary variance" means a written order issued by a department authorizing an employer to deviate from the requirements of an occupational safety or health standard prior to the effective date of the standard for the specific period of time necessary for the employer to achieve compliance with the standard.

PART 12: WAGE AND FRINGE BENEFIT HEARINGS

R 792.11201 Scope.

Rule 1201. The rules in this part govern proceedings before an administrative law judge under the act governing the payment of wages and fringe benefits, 1978 PA 390, MCL 408.471 to 408.490 **or the act governing the paid medical leave act, 2018 PA 338, MCL 408.961 to 408.974.**

R 792.11202 Definitions.

Rule 1202. As used in these rules:

(a) "Appeal" means request for review.

(b) "Appellant" means a party who files an appeal.

(c) "Department" means the Michigan department of licensing and regulatory affairs.

(d) "Determination order" means the written determination of the merits of a complaint, including violation citations, **notices of violation**, penalty assessments, and exemplary damage assessments, if any, issued by the department to an employee or employer pursuant to a complaint.

(e) "Director" means the director of the department.

(f) "Party" means a person admitted to participate in the hearing conducted pursuant to these rules. The employee, employer, and the department shall be parties to a proceeding before an administrative law judge brought under the payment of wage & fringe benefit act, 1978 PA 390, MCL 408.471 to 408.490 **or the paid medical leave act, 2018 PA 338, MCL 408.961 to 408.974.** .

(g) "Representative" means a person authorized by a party to represent that party in a proceeding.

(h) "Wage and hour program" means the agency within the department that is delegated the responsibility of investigating claims, issuing determination orders, **issuing notices of violation** and representing the department in hearings held under the, 1978 PA 390, MCL 408.471 to 408.490 **or the paid medical leave act, 2018 PA 338, MCL 408.961 to 408.974.**

R 792.11204 Filing of documents.

Rule 1204. (1) The filing of a document, with the exception of an appeal, is deemed effective at the time of mailing. The mailing date is presumed to be the postmark date appearing on the envelope if postage was prepaid and the envelope was properly addressed.

(2) An appeal from a determination order **or notice of violation** shall be filed with the wage hour program and shall be received within 14 days from the date of mailing of the determination **or notice of violation**.

R 792.11205 Late appeal; showing of good cause; hearing; determination order final.

Rule 1205. (1) Any appeal received by the department more than 14 days after the determination order **or notice of violation** is issued shall be immediately transmitted, along with the employee ~~wage~~ claim and the determination order **or notice of violation**, to the hearing system.

(2) Upon receipt of a late appeal under this rule, the administrative law judge shall issue an order which directs the appealing party to show good cause why the late appeal should

not be dismissed and the determination order **or notice of violation** made final. If the administrative law judge finds good cause for the late appeal, the case shall proceed to hearing. Absent such a finding, the determination order shall be held final.

R 792.11209 Representation at hearing.

Rule 1209. A party may be represented at a hearing and before the hearing system by an attorney or authorized representative of the party's own choosing and at the party's own expense.

~~PART 13. WORKERS' COMPENSATION HEARINGS AND APPEALS~~

~~SUBPART A. WORKERS' COMPENSATION BOARD OF MAGISTRATES~~

R 792.11301 ~~Scope.~~ **Rescinded.**

~~Rule 1301. (1) These rules apply to practice and procedures before the workers' compensation board of magistrates under the workers' disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.~~

~~(2) In the absence of an applicable rule, at the discretion of the magistrate, the Michigan court rules may be considered in proceedings under the workers' disability compensation act.~~

R 792.11302 ~~Hearing districts.~~ **Rescinded.**

~~Rule 1302. A hearing district is an area of the state served by 1 or more magistrates as designated by the chairperson of the board of magistrates.~~

~~(2) The basis for assignment of magistrates, establishing disposition deadline dates, and implementing alternative hearings procedures shall be as required by caseload designated by the chairperson of the board of magistrates and the demands of the docket.~~

~~(3) The magistrate in any hearing district shall enforce rules of procedure in the hearing district where he or she is assigned.~~

R 792.11303 ~~Appearances.~~ **Rescinded.**

~~Rule 1303. (1) Unless otherwise indicated by the magistrate, the parties or their attorneys shall personally appear at all pretrials or hearings as may be scheduled. The parties and their attorneys shall appear at a hearing date as may be scheduled and shall be ready to proceed as directed by the magistrate. Failure of the petitioner or the petitioner's attorney to appear in a timely manner and participate in a pretrial or hearing may subject the application for hearing to dismissal. If the respondent or the respondent's attorney fails to appear in a timely manner for a pretrial or hearing, then the magistrate may proceed in the absence of the respondent or the respondent's attorney.~~

~~(2) The board of magistrates may require such information from the parties as may be necessary to monitor the progress of the case, assist in the voluntary exchange of information between parties, and assist in the scheduling of cases.~~

R 792.11304 ~~Case resolution by order and opinion; attorney briefs; correction of mistakes in order or opinion.~~ **Rescinded.**

~~Rule 1304. (1) A case that is assigned to a magistrate shall be resolved by an order and, when applicable, an opinion. A magistrate may direct the attorneys to furnish briefs. The order and, when applicable, the opinion shall be written within 42 days of the closing of the record, except under extenuating circumstances as determined by the chairperson.~~

~~(2) Within the appeal period provided, a magistrate may correct a mistake in the order or opinion if the parties stipulate to the corrections pursuant to section 851 of 1969 PA 317, MCL 418.851. Any corrections shall require a corrected order or opinion, or both, and shall specify the correction made.~~

R 792.11305 ~~Admission of records, reports, memorandum, and data compilation~~. **Rescinded.**

~~Rule 1305. (1) Not less than 42 days before a hearing, the party intending to introduce a record, memorandum, report, or data compilation, shall furnish copies and a notice of intent to all parties, for which a proof of service shall be completed and retained by the noticing party.~~

~~(2) Any party objecting to an exhibit under this rule shall provide written objection to all parties not more than 21 days after receipt of the notice of intent, for which a proof of service shall be completed and retained by the objecting party. An objecting party may schedule cross-examination in response to the record, memorandum, report, or data compilation sought to be admitted under this rule.~~

~~(3) This rule shall not affect the magistrate's discretion to rule on newly discovered evidence.~~

~~(4) The notice of intent, objection, and proof of service shall not be sent to the workers' compensation agency. Only those records admitted into evidence by a magistrate shall be placed in the hearing system file or maintained by the hearing system.~~

R 792.11306 ~~Subpoena; provision to opposing party; submittal of subpoenaed records; disputes.~~ **Rescinded.**

~~Rule 1306. (1) A subpoena shall be on a hearing system approved form and include all of the following:~~

~~(a) The party requesting a subpoena shall certify that the matter about which the subpoena is requested is pending before the hearing system.~~

~~(b) Magistrate signatures are not necessary for subpoenas. Magistrates may sign subpoenas. A subpoena shall be fully completed before submission to a magistrate for signing.~~

~~(c) The return date indicated on the subpoena shall provide a reasonable time for compliance.~~

~~(d) Magistrates may sign a subpoena for a case that is assigned to another magistrate.~~

~~(2) A copy of a subpoena issued by a magistrate or attorney pursuant to section 853 of 1969 PA 317, MCL 418.853 shall be provided to all parties, or their legal counsel, at the time of issuance.~~

~~(3) The party for whom a subpoena is issued shall immediately do either of the following:~~

~~(a) Provide a complete copy of the records to all parties when received.~~

~~(b) Make the records reasonably available for copying when received.~~

~~(4) All subpoenaed records shall be returned directly to the party requesting the records. The charges for copying records shall be limited to the charges permitted by the workers' compensation agency health care services in R 418.10118(1).~~

~~(5) Only those records admitted into evidence by a magistrate at a hearing shall be placed in the agency file or maintained by the agency.~~

~~(6) Any dispute arising under this rule shall be brought by motion before the assigned magistrate and shall have a copy of the subpoena attached. A copy of the motion and the subpoena shall be served on all parties, or their counsel, and proof of service filed with the agency.~~

R 792.11307 ~~Scheduling.~~ **Rescinded.**

~~Rule 1307. (1) Within 90 days of the pretrial conference the magistrate shall set a scheduling conference that must be attended by all parties or their attorneys.~~

~~(2) At the scheduling conference the magistrate shall determine, in consultation with the parties, appropriate deadlines for completion of activities to further the progression of the claim to hearing or other resolution.~~

~~(3) Within 180 days of the scheduling conference the magistrate will schedule a status conference, at which time the parties will advise the magistrate as to the status of the claim. A facilitation date and hearing date may be assigned at the status conference. To the extent he or she deems necessary to the orderly processing of the claim, a magistrate may issue a scheduling order.~~

~~(4) This rule shall not apply to cases involving a carrier terminating the voluntary payment of benefits and cases involving a petition to stop or reduce compensation. In the event that a moving party is not ready to proceed to trial on the first scheduled hearing date, the magistrate may waive 60 day status.~~

R 792.11309 ~~Hearing procedures.~~ **Rescinded.**

~~Rule 1309. (1) The magistrate may require all parties to present an opening statement that identifies issues in dispute.~~

~~(2) The party filing the application for benefits must first present evidence in support of the application.~~

~~(3) Unless the magistrate orders otherwise, only one attorney for a party may examine or cross-examine a witness.~~

~~(4) The magistrate may require a final argument after the close of proofs.~~

~~(5) The magistrate may require prehearing or post-hearing briefs to address all issues in dispute.~~

~~(6) Any issue not raised in a pre-hearing brief, opening statement, final argument, or the closing of the record following lay testimony shall be deemed waived.~~

R 792.11310 ~~Hearing completion times.~~ **Rescinded.**

~~Rule 1310. The hearing completion time shall be at the discretion of the magistrate, but it shall not be more than 30 days after the date the hearing commenced. The magistrate may allow an extension beyond this time for good cause shown. At the hearing, the magistrate may call witnesses, issue subpoenas, and order the production of books, records, including hospital records, accounts, and papers that are necessary for the purpose of making a decision.~~

R 792.11311 ~~Final disposition of cases.~~ **Rescinded.**

~~Rule 1311. (1) Except under extenuating circumstances as determined by the chairperson of the board of magistrates, all cases assigned to a magistrate that proceed to hearing shall be resolved by opinion written within 42 days of hearing completion and shall be prepared by the agency for mailing.~~

~~(2) All redemption hearings agreements shall be either approved or denied by the issuance of a redemption order.~~

~~(3) All lump sum advance hearings shall be either approved or denied by the issuance of a lump sum application order.~~

~~(4) In cases that are resolved by voluntary payment there shall be a written voluntary pay agreement.~~

R 792.11312 ~~Disqualification of magistrate.~~ **Rescinded.**

~~Rule 1312. (1) A party may motion to disqualify a magistrate or a magistrate may raise the issue on his or her own initiative.~~

~~(2) A magistrate is disqualified if the magistrate cannot impartially hear a case. Circumstances that may raise issues of inability to impartially hear a case include, when a magistrate exhibits any of the following:~~

~~(a) Is an interested party.~~

~~(b) Is personally biased or prejudiced for or against a party or attorney.~~

~~(c) Has been consulted or employed as counsel.~~

~~(d) Was a partner of a party, attorney for a party, or a member of a law firm representing a party within the preceding 2 years.~~

~~(e) Is within the third degree, civil law, of consanguinity or affinity to a person acting as an attorney or within the sixth degree, civil law, to a party.~~

~~(f) Owns, or his or her spouse or minor child owns, a stock, bond, security, or other legal or equitable interest of a corporation that is a party. This subdivision does not apply to any of the following:~~

~~(i) Investments in securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934, 15 U.S.C. §78 et seq.~~

~~(ii) Shares in an investment company registered under the Investment Company Act of 1940, 15 U.S.C. §80a-1 et seq.~~

~~(iii) Securities of a public utility holding company registered under the Public Utility Holding Company Act of 1934, 15 U.S.C. §79 et seq.~~

~~(g) Is disqualified for any other reason of law.~~

~~(3) A motion to disqualify shall be filed within 30 days after the case has been assigned to a magistrate or within 10 days after the party discovers, or with reasonable diligence could have discovered, the information that is the basis of the motion, whichever is later.~~

~~(4) The motion of disqualification shall be stated positively and shall set forth with particularity the factors that would be admissible as evidence to establish the grounds stated in the motion. An affidavit shall accompany a motion.~~

~~(5) The challenged magistrate shall decide the motion. If the challenged magistrate denies the motion, then the challenging party may ask that the motion be referred for decision to another magistrate assigned by the chairperson, except as provided in subrule (6) of this rule.~~

~~(6) If the motion is made after the trial has commenced, then the challenged magistrate shall rule upon the motion. If the motion is denied, then the trial shall be continued by the trial magistrate.~~

~~(7) When a magistrate is disqualified, the chairperson shall assign another magistrate to hear the case.~~

~~(8) The parties may waive actual, potential, or purported conflicts with a magistrate, and that magistrate may then process the claim as he or she deems fit.~~

R 792.11313 ~~Discovery.~~ **Rescinded.**

~~Rule 1313. Discovery provided in 1969 PA 317, MCL 418.301 and MCL 418.401, and applicable case law, shall be equally available to all parties at the discretion and under the supervision of the magistrate.~~

~~SUBPART B. MICHIGAN COMPENSATION APPELLATE COMMISSION~~

R 792.11314 ~~Scope.~~ **Rescinded.**

~~Rule 1314. The rules in this subpart apply to practice and procedure before the Michigan compensation appellate commission in appeals under the workers' disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941 and are governed by R 792.11301 to R 792.11321.~~

R 792.11315 ~~Filings generally.~~ **Rescinded.**

~~Rule 1315. (1) All pleadings, transcripts, briefs, and other documents necessary for an appeal shall be filed with the Michigan compensation appellate commission. Each document shall be labeled with the claimant's social security number and a docket number, if assigned.~~

~~(2) Filing may be accomplished by hand delivery, by mailing, by facsimile transmission, or by other electronic means as prescribed by the Michigan compensation appellate commission followed by the original document. A facsimile transmission is deemed to have been received on time if it is received by the Michigan compensation appellate commission not later than the last minute of the day of the applicable deadline, as provided in these rules under prevailing Michigan time.~~

~~(3) The Michigan compensation appellate commission shall recognize one attorney of record for the purpose of receiving correspondence from the Michigan compensation appellate commission. The attorney of record for the appellant shall be the person signing the claim for review. The attorney of record for the appellee shall be the person filing an appearance for the appellee. Either party may change the attorney of record by filing a stipulation between the current and the new attorney of record or by filing a motion.~~

R 792.11316 ~~Filing of claim for review.~~ **Rescinded.**

~~Rule 1316. (1) An appeal to the Michigan compensation appellate commission shall be commenced when a party files a timely claim for review. An appellant shall provide copies of the filing to all other parties at the time of filing with the Michigan compensation appellate commission.~~

~~(2) Unless otherwise provided by the provisions of 1969 PA 317, MCL 418.101 to 418.941, a claim for review from any party shall be received by the Michigan compensation appellate commission not later than 30 days after the mailing date stamped by the workers' compensation agency on the appealed decision or order.~~

~~(3) A party does not become an appellant or a cross appellant by the party's own labeling of its filings. The Michigan compensation appellate commission will determine the status of an appeal in question.~~

~~(4) Further time in which to file a claim for review may be granted by the Michigan compensation appellate commission for sufficient cause shown.~~

~~(5) A request for further time in which to file a claim for review shall be submitted, in writing, and entitled "Motion for Delayed Appeal."~~

~~(6) A motion for delayed appeal shall specify the reasons why the claim for review is late.~~

R 792.11317 ~~Cross appeals.~~ **Rescinded**

~~Rule 1317. (1) A cross appeal shall be received by the Michigan compensation appellate commission not later than 30 days after the cross appellant has received a copy of the appellant's brief. The cross appellant shall provide all other parties with copies of the cross appeal at the time of filing with the Michigan compensation appellate commission. There shall be a rebuttable presumption that "receipt of appellant's brief" by all other parties occurred on the date of service or mailing indicated in the proof of service filed by the appellant with the Michigan compensation appellate commission.~~

~~(2) A cross appeal shall not be filed before the cross appellant receives a copy of the appellant's brief.~~

~~(3) There shall not be delayed cross appeals. An extension of time to file a reply brief does not extend the time to file a cross appeal.~~

~~(4) If the appellant's appeal is withdrawn or dismissed, the cross appeal shall be extinguished.~~

~~(5) A cross appeal shall be filed on the claim for review form specifically identifying that the party cross appeals the magistrate's decision.~~

~~R 792.11318 Briefing deadlines without filing transcript; time transcript considered filed.~~

~~Rule 1318. For purposes of briefing deadlines, if a stenographic record was not made at hearing, or if the Michigan compensation appellate commission has accepted the stipulation of the parties to proceed without the filing of a transcript, a transcript shall be considered to have been filed on the same day the filing of the claim for review.~~

R 792.11319 ~~Briefs; titles; filing.~~ **Rescinded.**

~~Rule 1319. (1) A brief shall be entitled "appellant's brief," "appellee's brief," "cross appellant's brief," or "cross appellee's brief," or shall be otherwise appropriately designated.~~

~~(2) An appellant's brief shall be filed with the Michigan compensation appellate commission not more than 30 days after a transcript is filed. Where there are multiple transcripts, the 30-day period begins to run when the last transcript is received by the Michigan compensation appellate commission.~~

~~(3) A cross appellant's brief shall be filed with the Michigan compensation appellate commission not more than 30 days after the cross appellant receives a copy of an appellant's brief.~~

~~(4) An appellee or a cross appellee need not file a brief. If the appellee or cross appellee wishes to file a brief, the appellee shall submit the brief to the Michigan comopensation appellate commission within 30 days after the appellee receives a copy of the appellant's brief. If the cross appellee wishes to file a brief, the cross appellee shall submit a brief to the commission within 30 days after the cross appellee receives the cross appellant's brief. There shall be a rebuttable presumption that "receipt of appellant's or cross appellant's brief" occurred by all other parties on the same date of service or mailing indicated in the proof of service filed by the appellant or cross appellant with the Michigan compensation appellate commission.~~

~~(5) A proof of service shall be filed with the Michigan compensation appellate commission with each brief and served upon all parties or their counsel.~~

R 792.11320 ~~Motion practice.~~ **Rescinded.**

~~Rule 1320. (1) All motions shall be in writing.~~
~~(2) A party who files a motion shall provide all other parties with copies of the motion at the time of filing with the Michigan compensation appellate commission and file a proof of service with the Michigan compensation appellate commission.~~
~~(3) A party has 14 days from the date the motion was filed with the Michigan compensation appellate commission to respond to the motion.~~

R 792.11321 ~~Extensions of time to comply with rules.~~ **Rescinded.**
~~Rule 1321. The Michigan compensation appellate commission may grant extensions of time to a party to comply with any of these rules for sufficient cause shown, except as otherwise provided in these rules.~~

PART 14: EMPLOYMENT SECURITY HEARINGS AND APPEALS

SUBPART A. GENERAL PROVISIONS

R 792.11401 Scope.

Rule 1401. The rules in this part govern proceedings before administrative law judges ~~and the Michigan compensation appellate commission~~ under the Michigan employment security act, 1936 PA 1, MCL 421.1 to 421.75.

R 792.11402 Definitions.

Rule 1402. (1) As used in these rules:

(a) "Act" as used in this part means the Michigan employment security act, 1936 PA 1, MCL 421.1 to 421.75.

(b) "Agency" means the unemployment insurance agency as created in Executive Reorganization Order No. 2003-1, MCL 445.2011**, and transferred to the Department of Labor and Economic Opportunity by Executive Reorganization Order No. 2019-13.**

(c) "Agent office" means an unemployment insurance office outside the state of Michigan serving as agent of the agency.

(d) "Good cause" includes, but is not limited to, any of the following:

(i) Newly discovered material evidence that, through no fault of the party, had not previously been available to the party.

(ii) A legitimate inability to act sooner.

(iii) A failure to receive a reasonable and timely notice, order, ~~or~~ decision**, or document** through no fault of ~~the~~ **any** party.

(iv) Untimely delivery of a protest, appeal, or ~~an agency~~ document by a business or governmental agency entrusted with delivery of mail.

(v) Relying on incorrect information from the agency~~, administrative law judge, the hearing system or the Michigan compensation appellate commission~~ **or the hearing system**.

~~(e) "Michigan compensation appellate commission" means the commission created by Executive Order 2011-6 to hear appeals under 1936 PA 1, MCL 421.1 to 421.75.~~

~~(f)~~ **(e)** Unless the context otherwise requires, the word "party" means the agency, the employing unit, ~~and~~ **or** the claimant, and includes an agent or attorney of the ~~a~~gency, the employing unit, or the claimant.

(f) "Unemployment Insurance Appeals Commission" means the commission created by Executive Reorganization Order No. 2019-13 to hear appeals under 1936 PA 1, MCL 421.1 to 421.75.

R 792.11403 Adjournments; taking testimony of witness unable to appear and testify at scheduled hearing; deposition.

Rule 1403. (1) Adjournments of hearings may be granted by the administrative law judge or the ~~Michigan compensation appellate commission~~ **Unemployment Insurance Appeals Commission** panel before whom the appeal is pending. Adjourned hearings shall be rescheduled to a time and place that the administrative law judge or the ~~Michigan~~

~~compensation appellate commission~~ **Unemployment Insurance Appeals Commission** deems most convenient for all interested parties.

(2) The administrative law judge or the ~~Michigan compensation appellate commission~~ **Unemployment Insurance Appeals Commission** panel may schedule an adjourned hearing at a place convenient to the residence of a witness to take his or her testimony, if he or she is unable to appear and testify at a regularly scheduled hearing.

(3) The testimony may be taken by any administrative law judge of this state or of any agent state, or may be taken by deposition pursuant to the provisions of law applicable to depositions in civil actions pending in the circuit courts of this state.

R 792.11410 Readiness of parties after notice of hearing; adjournment; issues before an administrative law judge.

Rule 1410. (1) A party appearing at a hearing before an administrative law judge after notice shall have his or her evidence and witnesses present and be ready to proceed on the statement of the issues contained in the notice of hearing.

(2) If an issue or time period beyond that specified in the determination or redetermination is raised at administrative law judge hearing without having been included in the notice of hearing, the hearing shall be adjourned for a reasonable time if requested by either party or if the administrative law judge deems adjournment appropriate. Evidence shall not be taken on the issue or time period that is not included in the notice of hearing, and a decision shall not be issued on such an issue or time period, unless a knowing and informed waiver of notice or adjournment is obtained from the parties. The purpose of the adjournment is to give the parties the opportunity to prepare to meet the newly identified issue.

(3) To secure a knowing and informed waiver on the record, an administrative law judge shall do all of the following:

(a) Advise the parties that an issue or issues or a period of time not specified in the hearing notice has been or is about to be raised.

(b) Advise the parties of the nature of such issue and the consequences of his or her ruling on such issue.

(c) Advise the parties of the right to request an adjournment or stipulate to continue with the hearing.

(4) With regard to that part of an administrative law judge decision which rules on an issue or a period of time not specified in the notice of hearing and where a waiver of adjournment has not been obtained, as required under subrules (2) and (3) of this rule, the ~~Michigan compensation appellate commission~~ **Unemployment Insurance Appeals Commission** may remand, set aside, modify, reverse, or affirm on appeal.

(5) If the agency, a party, or the administrative law judge discovers new, additional, or corrected information or administrative clerical error before or during the course of a hearing, which could affect the agency's position on a case, the administrative law judge may return the matter to the agency for reconsideration or redetermination.

SUBPART B. APPEALS TO ADMINISTRATIVE LAW JUDGES

R 792.11405 Appeal; form.

Rule 1405. (1) An appeal to an administrative law judge shall be filed pursuant to 1936 PA 1, MCL 421.1 to 421.75.

(2) Appeal forms for administrative law judge hearings**,** ~~and~~ rehearings**, and reopenings** shall be available at all agency offices.

R 792.11406 Appeal; deadline; statements on redetermination; procedure on appeal of denial of redetermination.

Rule 1406. (1) An appeal to an administrative law judge shall be received by ~~the principal~~ **an** office of the agency, **the hearing system,** ~~or by any other office of the agency~~, or by any agent office of the agency outside the state of Michigan **serving as agent of the agency**, within 30 days after the date of mailing or personal service of the agency's redetermination.

(2) A party who receives a denial of redetermination because his or her request for review was not filed ~~with the agency~~ within 30 days after the date of mailing or personal service of the underlying determination or redetermination may appeal the denial of redetermination to an administrative law judge. The administrative law judge shall take evidence on whether there was good cause for ~~issuing a redetermination~~ **appealing late**. If the administrative law judge finds good cause, ~~the administrative law judge shall inform the parties of that fact and shall then proceed to take testimony on,~~ **the party shall receive evidence,** and decide, the underlying issue or issues, pursuant to ~~R 792.11424~~ **R 792.11411**.

R 792.11407 Notice of hearing.

Rule 1407. (1) Except as required by ~~subrule (3) of this rule~~ **R 792.11408**, notice of the time and place of the initial hearing before an administrative law judge, and a short and plain statement of the issues involved, shall be served upon the parties not less than 10 days before the date of the hearing.

(2) When an administrative law judge adjourns or continues a hearing for which notice has been given, notice to the parties of the new hearing date may be given orally if the new hearing date is within 7 days of the old hearing date. Otherwise, the new notice shall be served at least 7 days before the date of the new hearing.

~~(3) When a hearing involves employer or claimant fraud under section 54, 54a, 54b, 54c, or 62(b), (c), or (d) of the act, MCL 421.54a, 421.54b, 421.54c or 421.62(b), (c), or (d), the notice of hearing shall be served upon the parties not less than 20 days before the date of the hearing.~~

R 792.11409 Subpoenas.

Rule 1409. **(1) An administrative law judge may issue subpoenas on his or her own initiative.**

~~(1)~~**(2)** A party may request subpoenas to compel witnesses to testify at an administrative law judge hearing or to compel persons to produce books, records, and papers at an administrative law judge hearing.

~~(2)~~**(3)** Requests for subpoenas shall be made to an administrative law judge.

~~(3)~~**(4)** The subpoenas shall be issued promptly, unless the administrative law judge decides that the request is unreasonable.

~~(4)~~**(5)** A party denied a subpoena may apply to the ~~Michigan compensation appellate commission~~ **Unemployment Insurance Appeals Commission** for issuance of the subpoena, and the proceedings before the administrative law judge shall be stayed until the ~~Michigan compensation appellate commission~~ **Unemployment Insurance Appeals Commission** decides whether the subpoena should be issued.

R 792.11410 Readiness of parties after notice of hearing; adjournment; issues before an administrative law judge.

Rule 1410. (1) ~~A party~~ **Parties** appearing at a hearing before an administrative law judge ~~after notice~~ shall have ~~his or her~~ **their** evidence and witnesses present and be ready to proceed on ~~the statement of~~ the issues contained in the notice of hearing.

(2) If an issue or time period beyond that specified in the determination or redetermination is raised at ~~administrative law judge~~ **the** hearing without having been included in the notice of hearing, the hearing ~~shall~~ **may** be adjourned for a reasonable time if requested by either party or if the administrative law judge deems adjournment appropriate. Evidence shall not be taken on the issue or time period that is not included in the notice of hearing~~, and a decision shall not be issued on such an issue or time period, unless a knowing and informed waiver of notice or adjournment is obtained from the parties. The purpose of the adjournment is to give the parties the opportunity to prepare to meet the newly identified issue~~.

(3) To secure a knowing and informed waiver on the record, an administrative law judge shall do all of the following:

(a) Advise the parties that an issue or issues or a period of time not specified in the hearing notice has been or is about to be raised.

(b) Advise the parties of the nature of such issue and the consequences of his or her ruling on such issue.

(c) Advise the parties of the right to request an adjournment or stipulate to continue with the hearing.

~~(4) With regard to that part of an administrative law judge decision which rules on an issue or a period of time not specified in the notice of hearing and where a waiver of adjournment has not been obtained, as required under subrules (2) and (3) of this rule, the Michigan compensation appellate commission may remand, set aside, modify, reverse, or affirm on appeal.~~

~~(5)~~**(4)** If the agency, a party, or the administrative law judge discovers new, additional, or corrected information or administrative clerical error before or during the course of a hearing, which could affect the agency's position on a case, the administrative law judge may return the matter to the agency for reconsideration or redetermination.

R 792.11411 Conduct of hearing.

Rule 1411. (1) The administrative law judge shall conduct and control the hearing to ~~develop the rights of the parties~~ **obtain the reasonably available competent evidence necessary to resolve the issues in the case**.

(2) At the beginning of the hearing, the administrative law judge shall identify all parties, representatives, and witnesses present and shall outline briefly the issues involved.

(3) Oral evidence at a hearing before an administrative law judge shall be taken only on oath or affirmation.

(4) Each party ~~shall have~~ **has** all of the following rights:

(a) To call and examine witnesses.

(b) To introduce exhibits.

(c) To cross-examine opposing witnesses on any matter relevant to the issues, even though that matter was not covered in the direct examination.

(d) To impeach any witness, regardless of which party first called the witness to testify.

(e) To rebut the evidence against ~~him or her~~ **the party**.

(5) A party may be called and examined as if under cross-examination.

(6) Oral arguments may be presented at the conclusion of the hearing.

(7) The administrative law judge may allow a reasonable time after conclusion of the hearing for the filing of written argument.

(8) To secure the competent relevant and material evidence necessary to arrive at a fair decision, an administrative law judge may do any of the following:

(a) Adjourn the hearing.

(b) Direct the parties to present required evidence.

(c) Cause subpoenas to be issued.

(d) Examine any party or witness.

(e) Accept stipulations of fact. Stipulations shall not involve an interpretation of the Act.

(9) If the claimant or employer is represented by legal counsel or an authorized agent, the administrative law judge shall allow legal counsel or the authorized agent **the opportunity** to ~~first~~ conduct the direct examination of his or her witness before the administrative law judge ~~further examines any party or~~ **examines that** witness.

(10) When ~~an~~ interested ~~party is~~ **parties are** not represented by legal counsel or an authorized agent, the administrative law judge ~~before whom the hearing is taking place~~ shall advise the ~~party~~ **parties** of ~~his or her~~ **their** rights, aid ~~him or her~~ **them** in examining and cross-examining witnesses, and give every assistance to the party compatible with an impartial discharge of the administrative law judge's ~~official~~ duties.

R 792.11412 Hearing location; telephone hearing.

Rule 1412. (1) Hearings held to resolve disputes of ~~determinations~~ **agency adjudications** made under sections 13 to 25**, with the exception of 20(a),** and sections 54, 54a, 54b, 54c or 62(b), (c), or (d) of the act, MCL 421.13 to 421.25, MCL 421.54, 421.54a, 421.54b, 421.54c or 421.62(b), (c), or (d), shall be scheduled as in-person hearings at a location determined by the hearing system. At the discretion of the administrative law judge, the testimony of parties or witnesses may be taken by telephone or video.

(2) With the exception of a hearing scheduled under subrule (1) of this rule, all hearings held before an administrative law judge shall be conducted by telephone, unless otherwise directed by the executive director of the ~~Michigan administrative~~ hearing system or ~~his or her~~ **their** designee or designees.

(3) ~~A party to the hearing shall submit any documents he or she intends to introduce at the hearing to the other parties and to the administrative law judge in time to ensure the documents are received before the date of the scheduled hearing. All documents submitted to the administrative law judge shall be identified on the record. The documents shall not~~

~~be considered evidence on the record unless offered and admitted during the course of the hearing.~~ **Except as provided in rule 1408(2), parties may offer copies of any papers, records, or photographs from the unemployment insurance agency's hearing packet. If parties have other records (writings, recordings, or photographs) that are not included in the hearing packet that they wish to be considered by the administrative law judge, they must be sent to the judge and the opposite party in time to ensure they are received before the date of the scheduled hearing. All records submitted to an administrative law judge shall be identified on the record. The records shall not be considered unless they are offered and admitted during the course of the hearing. The judge will decide whether the records may be considered under the Michigan Rules of Evidence.**

(4) If a hearing is conducted by telephone, the administrative law judge shall, on the record, **ascertain the participants' identity** ~~make inquiries that the administrative law judge considers~~ appropriate to ascertain the identity of the individuals participating by telephone. Absent approval of the executive director of the ~~Michigan administrative~~ hearing system or his or her designee, an administrative law judge shall not require a party to submit an affidavit to attest to his or her identity.

R 792.11413 Further hearing prior to decision.

Rule 1413. (1) At any time between the hearing and the issuance of the administrative law judge's decision, the administrative law judge may**, in his or her discretion,** direct a further hearing on his or her own initiative or ~~the motion of a party~~ **on a party's motion**.

~~(2) A further hearing is within the discretion of the administrative law judge.~~

R 792.11414 Rehearing of administrative law judge's decision **or order**.

Rule 1414. (1) A **party may** request ~~for~~ a rehearing of an administrative law judge's previous decision **or order. The request** shall be received by the administrative law judge or by an office or agent office of the agency within 30 days after the date of mailing of the decision **or order**. ~~A party requesting rehearing must serve their request on the opposing party.~~

(2) ~~Reasons for requesting a~~ **Valid reasons for** rehearing include, but are not limited to, ~~good cause for not appearing at a hearing or the discovery of material evidence after the date of the hearing~~. **any of the following:**

(a) Good cause for not appearing at a hearing.

(b) Discovery of material evidence after the date of hearing that could not have been discovered by due diligence.

(c) The administrative law judge's decision addressed issues outside of the scope of the notice of hearing.

(d) Substantive error in the decision or order.

(3) A rehearing may also be granted on the administrative law judge's own motion.

(4) Granting a rehearing is within the discretion of the administrative law judge. An order or decision allowing rehearing shall state the reasons for granting ~~the~~ rehearing.

(5) If a timely request for rehearing is denied, **the denial shall state the reason for denying rehearing** ~~both the denial and the administrative law judge's previous decision may be appealed to the Michigan compensation appellate commission~~.

(6) A rehearing request received more than 30 days after the decision is mailed shall be treated as a request for reopening under **R 792.11415** ~~R 792.11416~~.

R 792.11415 Reopening and review of administrative law judge's decision **or order**.

Rule 1415. (1) A **party may** request for reopening and review of an administrative law judge's decision **or order. The request** shall be received by the administrative law judge or by an office or agent office of the agency within 1 year after the date of mailing of the decision **or order**. ~~A party requesting reopening shall serve his or her request on the opposing party.~~

(2) The administrative law judge may reopen and review a matter on his or her own initiative, within 1 year after the date of mailing of the previous decision **or order**, after providing notice to the interested parties.

(3) ~~A reopening may be granted on the administrative law judge's own motion if the review is initiated by the administrative law judge, with notice to the interested parties, within 1 year after the date of mailing of the previous decision.~~ **Valid reasons for reopening include, but are not limited to any of the following:**

(a) Good cause for not appear at a hearing.

(b) Discovery of material evidence after the date of hearing that could not have been discovered by due diligence.

(c) The administrative law judge's decision addressed issues outside of the scope of the notice of hearing.

(d) Substantive error in the decision or order.

(4) Granting reopening is within the discretion of the administrative law judge. **An order of decision allowing reopening shall state the reason for granting reopening.** If reopening is granted, the administrative law judge shall decide the underlying issues of the case based on the evidence already submitted and any additional evidence the administrative law judge may enter into the record.

(5) ~~If the administrative law judge denies a request for reopening, the Michigan compensation appellate commission shall not review the administrative law judge's previous decision unless it first decides that there was good cause for a reopening.~~ **If a timely request for reopening is denied, the denial shall state the reason for denying reopening.**

R 792.11416 Notice of rights of appeal.

Rule 1416. Each decision or final order issued by an administrative law judge shall notify the parties of all of the following:

(a) A party has the right to have a decision or a denial of a motion for rehearing or reopening reviewed by the ~~Michigan compensation appellate commission~~ **Unemployment Insurance Appeals Commission** by ~~making a timely appeal~~ **appealing it within 30 days of the mailed date**. ~~The appealing party shall serve a copy of his or her appeal on the opposing party.~~

~~(b) A party may make a timely request to the Michigan compensation appellate commission for an oral argument or to present additional evidence in connection with his or her appeal.~~

~~(c) Absent oral argument before it, the Michigan compensation appellate commission shall consider a party's written argument to the commission only if all parties are represented or by agreement of the parties.~~

(d) A party may appeal a decision or final order of an administrative law judge directly to a circuit court if the claimant and the employer or their respective authorized agents or attorneys sign a written stipulation and file it with the administrative law judge ~~in a timely manner~~ **within 30 days of the mailed date**.

~~(e) A party may make a timely request to an administrative law judge to rehear a previous decision.~~

~~(f) A party may make a timely request to an administrative law judge, for good cause only, to reopen and review a previous decision.~~

~~SUBPART C. MICHIGAN COMPENSATION APPELLATE COMMISSION APPEALS UNEMPLOYMENT CASES~~

R 792.11417 ~~Scope; appeal; form.~~ **Rescinded.**

~~Rule 1417. (1) These rules apply to practice and procedure before the Michigan compensation appellate commission in appeals under the act, MCL 421.1 to 421.75, and are governed by R 792.11401 to R 792.11433.~~

~~(2) An appeal to the Michigan compensation appellate commission shall be in writing and shall be signed by the party appealing or his agent.~~

~~(3) Forms for appeals to the Michigan compensation appellate commission and for rehearing by the Michigan compensation appellate commission shall be available at the office of the Michigan compensation appellate commission and all agency offices that are open to the public.~~

R 792.11418 ~~Appeal; deadline; procedure for late appeal.~~ **Rescinded.**

~~Rule 1418. (1) An appeal to the Michigan compensation appellate commission shall be received at the office of the Michigan compensation appellate commission.~~

~~(2) To be received on time, an appeal to the Michigan compensation appellate commission must be received within 30 days after the mailed date the administrative law judge's decision, order denying rehearing or reopening.~~

~~(3) The Michigan compensation appellate commission is without jurisdiction to consider the merits of any appeal received after the 30-day appeal period. A party whose appeal is received by the Michigan compensation appellate commission after the 30-day appeal period may request a reopening by the administrative law judge under R 792.11405. , assuming the request is received within 1 year of the date of mailing of the administrative law judge's decision. The administrative law judge's decision or order on the reopening request may then be appealed to the Michigan compensation appellate commission.~~

~~(4) An appeal or request for rehearing or reopening to the Michigan compensation appellate commission may be made by personal service, postal delivery, facsimile transmission, or other electronic means as prescribed by the Michigan compensation appellate commission. If an appeal or request is made by facsimile transmission, the following will be presumed:~~

~~(a) That the facsimile transmission was received on time if it was received by the Michigan compensation appellate commission not later than the last minute of the day of the applicable deadline as provided in these rules under prevailing Michigan time.~~

~~(b) That the facsimile transmission was received on the date and at the time electronically entered or printed on the face of the document, subject to verification by the Michigan compensation appellate commission at its discretion.~~

R 792.11419 ~~Commission; decision based on record; notice.~~ **Rescinded.**

~~Rule 1419. (1) The Michigan compensation appellate commission may decide cases on the record made by the administrative law judge, without any of the following:~~

~~(a) Oral argument before it.~~

~~(b) Additional evidence.~~

~~(c) Consideration of written argument.~~

~~(2) The record made by the administrative law judge includes the transcript or recording of the hearing, accurate copies of exhibits clearly marked and received at the administrative law judge hearing, and written argument submitted to the administrative law judge if the other parties present at the hearing have been served a copy of the argument and have been given an adequate opportunity to respond to it.~~

~~(3) The Michigan compensation appellate commission shall serve a notice of receipt of appeal on all parties. The notice of receipt of appeal shall inform parties of the right to request all of the following:~~

~~(a) Oral argument.~~

~~(b) Opportunity to submit additional evidence.~~

~~(c) Opportunity to submit written argument.~~

R 792.11420 ~~Oral argument; application.~~ **Rescinded.**

~~Rule 1420. (1) Oral argument to the Michigan compensation appellate commission shall be by written application and must be received within 14 days after the mailed date of the notice of receipt of appeal.~~

~~(2) A written application shall set forth the reasons for requesting oral argument. The application shall be served on all other parties at the time of filing with the Michigan compensation appellate commission.~~

~~(3) The application shall be granted or denied by at least 2 members of the Michigan compensation appellate commission panel assigned to review the appeal.~~

~~(4) On the motion of at least 2 members of the Michigan compensation appellate commission panel assigned to review a pending appeal, oral argument may be ordered.~~

~~(5) The Michigan compensation appellate commission may at its discretion consider oral argument presented in person by conference telephone or other electronic means.~~

R 792.11421 ~~Presentation of additional evidence; application.~~ **Rescinded.**

~~Rule 1421. (1) Presentation of additional evidence to the Michigan compensation appellate commission shall be by order of the Michigan compensation appellate commission.~~

~~(2) If a party applies to the Michigan compensation appellate commission for permission to present additional evidence, the application shall be in writing and shall set forth the reasons why the additional evidence should be received. The application must be served on all other parties at the time of filing with the Michigan compensation appellate commission. The granting or denial of additional evidence is within the discretion of the Michigan compensation appellate commission.~~

~~(3) To be granted, the application shall be approved by 2 members of the Michigan compensation appellate commission panel assigned to review the appeal.~~

R 792.11422 ~~Additional evidence; order.~~ **Rescinded.**

~~Rule 1422. (1) When the Michigan compensation appellate commission orders additional evidence, it may do any of the following:~~

~~(a) Conduct a hearing pursuant to the act for the purpose of taking and receiving such evidence as it deems necessary.~~

~~(b) Remand the matter to an administrative law judge for the purpose of taking and receiving such evidence and submitting the evidence so received to the Michigan compensation appellate commission for decision.~~

~~(c) Set aside the administrative law judge's decision and remand the matter to the administrative law judge for the purpose of receiving such additional evidence and issuing a new decision based upon the entire record.~~

~~(2) Absent an evidentiary hearing, the Michigan compensation appellate commission shall mail a copy of any evidence it intends to introduce into the record to each party. The parties shall have 14 days thereafter to object to or refute such evidence.~~

R 792.11423 ~~Written argument; reply; deadlines; consideration; agreement; application for oral argument or additional evidence not deemed written argument; amicus briefs.~~ **Rescinded.**

~~Rule 11423. (1) A party may apply to the Michigan compensation appellate commission for permission to submit written argument. The application shall be in writing and shall set forth the reasons for requesting written argument.~~

~~(2) The application must be received by the Michigan compensation appellate commission within 14 days after the mailed date of the notice of the receipt of appeal. The application must be served on all other parties at the time the application is filed with the Michigan compensation appellate commission.~~

~~(3) The application for written argument shall be granted or denied, subject to subrule (4) of this rule. To be granted, the application shall be approved by 2 members of the Michigan compensation appellate commission panel assigned to review the application.~~

~~(4) The Michigan compensation appellate commission may consider a party's written argument only if any of the following conditions exist:~~

~~(a) All parties are represented by an attorney or other agent of record.~~

~~(b) All parties agree that the Michigan compensation appellate commission may consider written argument. The agreement must be in writing, signed by each party, and received by the Michigan compensation appellate commission not later than 14 days after the mailed date of the notice of receipt of appeal.~~

~~(c) The Michigan compensation appellate commission orders oral argument before it.~~

~~(d) The Michigan compensation appellate commission orders evidence produced before it.~~

~~(5) A reply, if any, to another party's timely written argument, together with a statement of service of a copy on each other party, shall be received by the Michigan compensation appellate commission not later than14 days after the mailed date of the other party's written argument.~~

~~(6) An extension of time for the filing of written argument may be permitted by the Michigan compensation appellate commission at its discretion and of warranted by the circumstances.~~

~~(7) A party's application to the Michigan compensation appellate commission for either oral argument or additional evidence shall not be deemed a written argument within the meaning of this rule.~~

~~(8) When the parties are permitted to submit written argument pursuant to this rule and section 34 of the act, MCL 421.34, the Michigan compensation appellate commission may consider requests for permission to submit an amicus brief from persons or organizations~~

~~that are not parties to the matter before the Michigan compensation appellate commission. If the Michigan compensation appellate commission, in its discretion, grants such a request, all parties shall be notified and the brief shall be submitted to the Michigan compensation appellate commission, together with a statement of service of a copy of the brief on each of the parties.~~

R 792.11424 ~~Record of proceedings; transmittal to the Michigan compensation appellate commission following notification of appeal.~~ **Rescinded.**

~~Rule 1424. The director of the hearing system or his or her designate shall promptly transmit the record of proceedings before the administrative law judge, including the supporting accurate copies of exhibits clearly marked, to the Michigan compensation appellate commission.~~

R 792.11425 ~~Transfer of proceeding pending before administrative law judge.~~ **Rescinded.**

~~Rule 1425. (1) A party to a proceeding pending before an administrative law judge may file a regular application to the Michigan compensation appellate commission for either of the following:~~

~~(a) Transfer of the proceeding to the Michigan compensation appellate commission.~~

~~(b) Transfer of the proceeding to another administrative law judge.~~

~~(2) A party may file 2 regular applications for transfer. A regular application shall be filed at least 3 business days before the pending scheduled hearing. An application received after business hours shall be considered filed the next business day.~~

~~(3) A party may file a delayed application for transfer. A delayed application be is one filed less than 3 business days before the pending scheduled hearing. The Michigan compensation appellate commission may grant a delayed application for sufficient cause shown, that establishes both of the following:~~

~~(a) That circumstances leading to the delay were beyond the control of the applicant.~~

~~(b) That to hold the hearing would violate due process.~~

~~(4) A party may file an extenuating circumstances application for transfer. An extenuating circumstances application may be filed after a party has filed 2 or more applications, in any combinations of subrule (2), (3), or (4) of this rule. The Michigan compensation appellate commission may grant the application for sufficient cause shown that establishes both of the following:~~

~~(a) That suspending the proceeding will not create undue hardship for the opposing party.~~

~~(b) That holding the hearing would violate due process.~~

~~(5) As soon as practicable, the Michigan compensation appellate commission shall notify the administrative law judge of 1 of the following:~~

~~(a) That a regular application for transfer is pending.~~

~~(b) That an application for delayed transfer is granted.~~

~~(c) That an application for extenuating circumstances transfer is granted.~~

~~(6) Upon notification under subrule (5) of this rule, the administrative law judge shall immediately issue an order suspending any further proceedings before him or her that involve the pending or granted application.~~

~~(7) Upon its own motion, or in response to an application under subrules (2), (3), or (4) of this rule, the Michigan compensation appellate commission shall determine whether sufficient cause exists to transfer the proceeding.~~

R 792.11426 ~~Subpoenas.~~ **Rescinded.**

~~Rule 1426. If the Michigan compensation appellate commission orders additional evidence to be taken before it, a party may ask the Michigan compensation appellate commission for subpoenas to compel witnesses to testify or to compel the production of books, records, and papers. The Michigan compensation appellate commission, or a panel of the commission, may issue a subpoena on its own initiative.~~

R 792.11427 ~~Proceedings before Michigan compensation appellate commission panels.~~ **Rescinded.**

~~Rule 1427. (1) A matter to be heard by the Michigan compensation appellate commission shall be assigned to a 3-member panel of the Michigan compensation appellate commission for disposition.~~

~~(2) A decision reached by the majority of the panel or of the entire commission sitting en banc shall be the decision of the Michigan compensation appellate commission.~~

~~(3) The entire Michigan compensation appellate commission shall conduct a full review of any appeal not yet decided and mailed if full commission review is requested by 6 commissioners.~~

~~(4) A decision of the full Michigan compensation appellate commission that is equally divided shall constitute an affirmance of the decision initially appealed to the Michigan compensation appellate commission.~~

R 792.11428 ~~Michigan compensation appellate commission; communications.~~ **Rescinded.**

~~Rule 1428. The members of the Michigan compensation appellate commission may communicate with employers, employees, and their agents and with representatives of the public interest about issues of unemployment insurance and matters affecting the administration of the act.~~

R 792.11429 ~~Michigan compensation appellate commission; decision or order; copies; notice of rights of appeal.~~ **Rescinded.**

~~Rule 1429. (1) The Michigan compensation appellate commission shall issue written decisions or orders that are signed and dated. The Michigan compensation appellate commission need not provide any explanation or reasons for its decision or order when it affirms an administrative law judge's decision without substantive alteration or modification.~~

~~(2) Decisions of the Michigan compensation appellate commission shall contain the rights of appeal pursuant to R 792.1442.~~

R 792.11430 ~~Rehearing of Michigan compensation appellate commission's decision.~~ **Rescinded.**

~~Rule 1430. (1) A request for a rehearing of a Michigan compensation appellate commission decision shall be received by the Michigan compensation appellate~~

~~commission within 30 days after the mailed date of the decision. A party requesting a rehearing shall serve the request on all other parties at the time of filing with the Michigan compensation appellate commission.~~

~~(2) The Michigan compensation appellate commission may grant rehearing on its own motion.~~

~~(3) Granting a rehearing is within the discretion of the Michigan compensation appellate commission.~~

~~(4) If a request for rehearing is denied, both the denial and the Michigan compensation appellate commission's decision may be appealed to the appropriate circuit court pursuant to section 38 of the act, MCL 421.38.~~

~~(5) A rehearing request received more than 30 days after the mailed date of the decision shall be treated as a request for reopening.~~

R 792.11431 ~~Reopening and review of Michigan compensation appellate commission's decision.~~ **Rescinded.**

~~Rule 1431. (1) A request for a reopening and review of the Michigan Compensation appellate commission's decision shall be received by the Michigan compensation appellate commission within 1 year, but moe than 30 days after the mailed date of decision.~~

~~(2) Reopening will be granted only if good cause is established. If the Michigan compensation appellate commission grants reopening, the order or decision allowing reopening shall contain a statement of the basis of the good cause finding. If the Michigan compensation appellate commission denies reopening, the order denying reopening shall contain a statement of the basis for the denial.~~

~~(3) The Michigan compensation appellate commission may grant reopening its own motion, with notice to the parties, within 1 year after the mailed date of the decision.~~

~~(4) If the Michigan compensation appellate commission grants a request for reopening, it shall decide the underlying issues of the case based on the record already made and any additional evidence the Michigan compensation appellate commission may enter in the record.~~

~~(5) If the Michigan compensation appellate commission denies a request for reopening, both the denial of reopening and the initial decision may be appealed to the appropriate circuit court under section 38 of the act, MCL 421.38.~~

R 792.11432 ~~Notice of rights of appeal.~~ **Rescinded.**

~~Rule 1432. (1) Each Michigan compensation appellate commission decision or final order shall notify the parties of all of the following:~~

~~(a) A party has the right to make a timely appeal of a decision or final order of the Michigan compensation appellate commission to a circuit court.~~

~~(b) A party may make a timely request to the Michigan compensation appellate commission to rehear a decision.~~

~~(c) A party may make a timely request to the Michigan compensation appellate commission, subject to a showing of good cause, to reopen and review a decision.~~

~~(2) Each Michigan compensation appellate commission decision or final order shall state the deadlines and places of receipt of the alternatives in subrule (1) of this rule. It shall also state in boldface type: "TO PROTECT YOUR RIGHTS, YOU MUST BE ON TIME."~~

R 792.11433 ~~Stipulations.~~ **Rescinded.**

~~Rule 1433. (1) The parties to an appeal before the Michigan compensation appellate commission may stipulate to facts at issue.~~

~~(2) Stipulations shall not be in any sense in derogation of the act and shall not involve an interpretation of the act.~~

PART 15. EMPLOYMENT RELATIONS COMMISSION

R 792.11501 General rules.

Rule 1501. The general rules of the employment relations commission, R 423.101 to R 423.484, govern practice and procedure in administrative hearings conducted by the ~~Michigan administrative~~ hearing system in cases arising under LMA, 1939 PA 176, MCL 423.1 to 423.30, and PERA, 1947 PA 336, MCL 423.201 to 423.217, with the exclusion of parts 2 and 3 of those rules.

PART 16: OFFICE OF RETIREMENT SERVICES

SUBPART A. GENERAL HEARING RULES

R 792.11601 Scope; definitions.

Rule 1601. (1) These rules apply to hearings held under the jurisdiction of the state employees' retirement board, the judges' retirement board, the state police retirement board, and the public school employees' retirement board.

(2) As used in these rules:

(a) " Retirement act" means the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, the judges' retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2111; the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648; or the school employees' retirement act of 1980, 1980 PA 300, MCL 38.1301 to 38.1309, as applicable.

(b) "Application" means a request for a benefit provided by an applicable retirement act, including a request to reopen a closed application and a reapplication.

(c) "Board" means the retirement board as defined in the applicable act.

(d) "Closed application" means a request by an individual for a benefit provided by the act that was withdrawn by the individual or otherwise never decided by the retirement system or the board.

(e) "Good cause," as used in this part, means the legitimate failure to file a document or a witness list in a timely manner and does not include a person's own careless neglect or inattention to the requirements of these rules.

(f) "Reapplication" means a request by an individual for a benefit provided by the applicable **retirement** ~~retirment~~ act, that was previously decided by the staff of the retirement system or the board.

(3) The terms defined in 1943 PA 240, MCL 38.1 to 38.69, 1992 PA 234, MCL 38.2101 to 38.2111, 1986 PA 182, MCL 38.1601 to 38.1648, and 1980 PA 300, MCL 38.1301 to 38.1309, have the same meaning when used in these rules.

R 792.11609 Medical examination.

Rule 1609. (1) For purposes of deciding eligibility for disability retirement under sections 21 and 24 of 1943 PA 240, MCL 38.21 and 38.24, a medical examination conducted by 1 or more medical advisors means either a personal medical examination of the **retirement** ~~retirment~~ system member or a review of the application and medical records of the member.

(2) If an applicant for a disability retirement under section 21 or 24 of 1943 PA 240, MCL 38.21 and 38.24, of the retirement act fails to submit to a reasonable medical examination requested by the system, the application shall be denied.

PART 19: CORRECTIONS

R 792.11903 Hearing and decisions.

Rule 1903. (1) Not less than 24 hours before a formal hearing, a prisoner shall receive written notice of the hearing. The notice shall include all of the following:

(a) Any charges of alleged violations.

(b) A description of the circumstances giving rise to the hearing.

(c) Notice of the date of hearing.

(2) A prisoner shall set forth all of the following on the notice form:

(a) Necessary witnesses the prisoner wishes to have interviewed, if any.

(b) A request for documents specifically relevant to the issue before the administrative law judge, if any.

(c) A request for assistance of a staff investigator to gather evidence or speak for the prisoner, if desired.

(3) A prisoner may **verbally** waive the 24-hour notice requirement **at the time he or she receives his or her written notice or at hearing.** ~~if that waiver is in writing and signed by the prisoner.~~

(4) If a prisoner fails to appear for a hearing after proper notice has been given as set forth in subrule (1) of this rule, the administrative law judge may proceed with the hearing and make a decision in the absence of the prisoner.

(5) A prisoner shall have all of the following rights at a formal hearing:

(a) To offer evidence, including written arguments, relevant documents, and witness statements, by making these requests to the investigator at the time of the interview, or sufficiently in advance of the hearing to conduct an adequate investigation as determined by the administrative law judge.

~~(a)~~**(b)** To be present and offer **oral arguments** ~~evidence, including relevant documents and oral and written arguments,~~ on his or her own behalf.

~~(b)~~**(c)** To compel disclosure of documents specifically relevant to the issue before the ~~hearing officer~~ **administrative law judge,** unless the administrative law judge determines that may be dangerous to a witness or disruptive of normal prison operations. The reason for the nondisclosure shall be entered into the record.

~~(c)~~**(d)** To present evidence from necessary, relevant, and material witnesses, when to do so is not unduly hazardous to institutional or safety goals.

~~(d)~~**(e)** To have presented to the administrative law judge the report of a staff investigator who interviewed and obtained statements from relevant witnesses, secured relevant documents, and gathered other evidence, if a staff investigator was requested when notice of the charges was given, unless that request is denied as set forth in subrule (6) of this rule, and if the prisoner has reasonably cooperated with the staff investigator.

~~(e)~~**(f)** To submit written questions to the hearing investigator to be asked of witnesses.

~~(f)~~**(g)** If an administrative law judge denies a request made by a prisoner on the notice form provided under subrule (2) of this rule, specific reasons for the denial shall be placed in the record. The presence of a witness is not necessary if the witness's testimony is repetitious or if the witness is able to provide the administrative law judge or investigator with a complete written statement.

(6) A staff investigator shall be available, when necessary, to gather and present factual evidence orally or in writing at the request of either the prisoner or the administrative law

judge. If the administrative law judge determines that a prisoner appears to be incapable of speaking effectively for himself or herself, the ~~hearing officer~~ **administrative law judge** shall request a staff investigator to appear and present arguments on the prisoner's behalf. The failure of a staff investigator to present requested documents or statements is justified if to do so would be unduly hazardous to institution or safety goals or if the information is irrelevant or unnecessary to the particular case. The specific reason for such failure shall be placed in the record.

(7) The administrative law judge shall render a written decision ~~or recommendation~~ in every case. The written decision ~~or recommendation~~ shall include all of the following:

(a) The reasons for the denial of a prisoner's requests, if any.

(b) A statement of the facts found.

(c) The evidence relied on in support of the decision or recommendation.

(d) A disposition of property, if applicable, in accordance with department policy.

~~(d)~~**(e)** Any sanctions or orders imposed by the administrative law judge. A copy of the decision shall be furnished to the prisoner.