

260-RICR-50-05-10

TITLE 260 – DEPARTMENT OF LABOR AND TRAINING

CHAPTER 50 – INJURED WORKER SERVICES

SUBCHAPTER 05 – WORKERS’ COMPENSATION

PART 10 – WORKERS’ COMPENSATION RULES PURSUANT TO 28-36-15 (LACK OF INSURANCE)

10.1 Purpose

The purpose of these rules is to provide procedural guidelines for hearings for failure to secure the payment of compensation under the provisions of R.I. Gen. Laws § 28-29-1 *et seq.*

10.2 Authority

These rules and regulations are promulgated pursuant to R.I. Gen. Laws § 28-36-15.

10.3 Definitions

“Director” means the Director of the Department of Labor and Training and his or her designee.

“Department” means the Department of Labor and Training

10.4 Administrative Hearing to Assess Penalty Pursuant to R.I. Gen. Laws § 28-36-15 (c)

- A. The Division of Workers’ Compensation shall investigate and make a preliminary determination with respect to the failure to secure payment of compensation pursuant to R.I. Gen. Laws 28-36-15. Preliminary determinations shall be referred to the Director of the Rhode Island Department of Labor and Training. If after review of the preliminary determinations, the Director finds that sufficient cause exists for imposition of a civil penalty in accordance with R.I. Gen. Laws 28-36-15(c), the following procedures shall be followed:

1. All parties in interest shall be given not less than ten (10) days' notice by mail of the time, place and nature of the hearing.
2. Notice shall contain
 - a. a short and plain statement of the matter to be considered at the hearing; and
 - b. a statement of the legal authority and jurisdiction under which the hearing is to be held, with reference to the particular section of the statutes and rules involved.
3. Opportunity shall be afforded all parties at the hearing to respond to and present evidence and argument pertinent to the issues involved. The notice shall advise the parties that they may be represented by counsel.
4. Informal disposition may be made of any contested case by stipulation, agreed settlement, or consent order.
5. The Director may grant extensions of time where in his or her discretion the continuance will not result in undue delay or undue hardship. If a party fails to respond or exercise its right to present evidence or argument of the issues involved after proper notice to said party, the Director shall render a decision based upon the documents and evidence presented at the hearing.
6. The Department will arrange for a stenographer to be present at the formal hearing and transcribe any formal hearings. If a party chooses, it may purchase a transcript. The cost will be borne by the party ordering a transcript.
7. The Director shall submit a written decision of his/her action setting forth the findings of fact, conclusions of law and any applicable administrative penalty which the Director in his/her discretion may assess. All parties shall be notified by mail of any decision.

10.5 Administrative Hearing to Suspend Business Operations Pursuant to R.I. Gen. Laws § 28-36-15(e)(1)

- A. The Director will review the preliminary determinations of the Workers' Compensation Division finding that an employer continues to operate without required workers' compensation insurance. If after review the Director finds that sufficient cause exists to proceed to further administrative action to suspend the operation of the business, the following procedures will be followed:
1. The Director will issue an order requiring the employer to appear before the Department of Labor and Training to show cause why an order suspending the business operation should not be issued pursuant to R.I. Gen. Laws § 28-36-15(e)(1). The order will provide notice of the hearing date, time, place and nature of the hearing.
 2. The employer will be given three (3) days' notice of the hearing. The order may be personally served on the employer, the employer's representative or agent or the order may be left at the employer's place of business if the employer is a corporation. The Director has the discretion to provide less than three (3) days' notice in cases presenting a clear and imminent danger of irreparable harm to employees.
 3. The Department will arrange for a stenographer to be present at the formal hearing and transcribe any formal hearings. If a party chooses, it may purchase a transcript. The cost will be borne by the party ordering a transcript.
 4. If the Director determines the employer is operating without required workers' compensation insurance, a Stop Work Order will be issued immediately, suspending the operation of business and setting forth the Director's findings of fact, conclusions of law, and his/her action. Operation of the business will remain suspended until the Director receives satisfactory proof of insurance and evidence sufficient to satisfy the Director that the employer is in full compliance with the provisions of R.I. Gen. Laws Chapters 28-29 through 28-38, inclusive.

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