

Subpart F. RULES OF PROCEDURE

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CHAPTER 56. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

- Sec.
- 56.1. Applicability of general rules.
 - 56.2. Adjudication procedure.
 - 56.3. Admissions as to facts and documents.

Authority

The provisions of this Chapter 56 issued under section 35 of the Administrative Agency Law (71 P. S. § 1710.35) (Repealed); and section 506 of The Administrative Code of 1929 (71 P. S. § 186), unless otherwise noted.

Source

The provisions of this Chapter 56 adopted February 7, 1975, 5 Pa.B. 239, amended December 9, 1977, effective December 10, 1977, 7 Pa.B. 3611. Immediately preceding text appears at serial page (19066), unless otherwise noted.

Cross References

This chapter cited in 31 Pa. Code § 67.6 (relating to appeals); 31 Pa. Code § 147.6 (relating to qualifications of independent certified public accountant); and 31 Pa. Code § 147.13 (relating to effective date and exemption).

§ 56.1. Applicability of general rules.

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) is applicable to the activities of and proceedings before the Insurance Department except 1 Pa. Code §§ 35.201—35.207, 35.211—35.214 and 35.221 (relating to proposed reports generally; exceptions to proposed reports; and briefs and oral argument in absence of proposed report).

Source

The provisions of this § 56.1 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 239; amended December 9, 1977, effective December 10, 1977, 7 Pa.B. 3611. Immediately preceding text appears at serial page (19066).

§ 56.2. Adjudication procedure.

(a) At the conclusion of an administrative hearing, if submission of briefs is waived by participants with the consent of the presiding officer or the Insurance Commissioner sitting as such or after submission of briefs, the matter will be adjudicated by the Insurance Commissioner. Consequently, notwithstanding any provision of 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) to the contrary, oral argument, certification of the record of hearing or a proposed report by a presiding officer prior to adjudication by the Insurance Commissioner are dispensed with.

(b) The provisions of subsection (a) supersedes 1 Pa. Code §§ 35.201—35.207, 35.211—35.214 and 35.221 (relating to proposed reports generally; exceptions to proposed reports; and briefs and oral argument in absence of proposed report).

Source

The provisions of this § 56.2 adopted December 9, 1977, effective December 10, 1977, 7 Pa.B. 3611.

Notes of Decisions

While this section mandates providing an opportunity to be heard, this opportunity does not require an evidentiary hearing. Where no disputed facts are present, the motion proceedings, including briefs and argument by both parties, provide an ample opportunity to be heard. *United Healthcare Benefits Trust v. Insurance Commission*, 620 A.2d 81 (Pa. Cmwlth. 1993).

§ 56.3. Admissions as to facts and documents.

(a) A participant may serve upon any participant a written request for the admission by him, for the purpose of the pending hearing only, of the truth of relevant matters of fact set forth in the request or of the genuineness of any writing, document, or record, a copy of which is attached to the request, or of the truth of any fact relating to its authenticity, correctness, execution, delivery, mailing or receipt.

(b) A matter of which an admission is requested is admitted unless the participant, within 10 days after service of the request, serves upon the requesting participant:

- (1) A sworn denial or explanation why he cannot admit or deny the matter.
- (2) Objections to the relevance or competence of the matter or the scope of the request.

(c) The provisions of subsections (a) and (b) supplement 1 Pa. Code §§ 35.112 and 35.155 (relating to conferences to expedite hearings; and presentation and effect of stipulations).

Source

The provisions of this § 56.3 adopted December 9, 1977, effective December 10, 1977, 7 Pa.B. 3611.

Notes of Decisions*Denial*

In view of the relaxed procedural and evidentiary rules that normally govern administrative proceedings it was permissible for the Department to permit a party to submit a sworn denial to its answer to Request for Admissions subsequent to the filing of that answer. *R. A. Freudig Associates v. Insurance Department*, 532 A.2d 509 (Pa. Cmwlth. 1987).

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