

**Rhode Island Department of Labor and Training
Division of Workers' Compensation Rules Pursuant to
Rhode Island General Laws Section 28-36-15**

The purpose is to provide procedural guidelines for hearings for failure to secure the payment of compensation under the provisions of Chapters 29-38, inclusive, of Title 28 of the Rhode Island General Laws.

The Division of Workers' Compensation shall investigate and make a preliminary determination with respect to securing payment of compensation. 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 formal administrative action, the following procedures shall be followed:

- (1) The parties 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 to respond and present evidence and argument of the issues involved. 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. Such settlements and consent orders shall be considered a final order of the Director of the Rhode Island Department of Labor and Training, Division of Workers' Compensation.
- (5) All formal proceedings under these rules shall be expeditious as possible and all time limits shall be discretionary. The Director may grant extensions of time where the continuance will not result in undue delay or undue hardship. No more than three (3) continuances will be granted to any party. If a party fails to respond and exercise their right to present evidence and argument of the issues involved after proper notice to said party, the Director shall render a decision based upon the documents and evidence before the Department at the time of scheduled 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, they may purchase a transcript.

- (7) The employer shall have the burden of proof to demonstrate that the company had insurance for Workers' Compensation at the time of the alleged violation.
- (8) 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. The Order of the Director is final. All parties shall be notified by mail of any order.
- (9) Upon a finding by the Director that an employer has failed to secure the payment of compensation under the provisions of Chapters 29-38 of Chapter 28, an administrative penalty may be assessed in the Director's discretion. In determining the reasonableness of said administrative penalty, the Director shall consider, inter alia, the following factors: 1) the length of time that the employer has been noncomplying; 2) the number of compensable injuries that have been sustained by employees during said period; 3) the nature and extent of said injuries; 4) the number of employees who have been entitled to compensation under Chapters 29-38 of Title 28; 5) the risk of injuries arising out of the employer's business operation; and; 6) the employer's cooperation or lack of cooperation with the Division of Workers' Compensation in its investigation and preliminary determination of compliance with the provisions of Chapters 29-38 of Title 28.
- (10) Any party shall have the right to appeal the final order of the Director to the Workers' Compensation Court in accordance with the provisions of R.I.G.L. §28-35-20.