

MARYLAND RULES OF PROCEDURE

TITLE 7 - APPELLATE AND OTHER JUDICIAL REVIEW IN CIRCUIT COURT

CHAPTER 200 - JUDICIAL REVIEW OF ADMINISTRATIVE AGENCY DECISIONS

AMEND Rule 7-202 to require identification of any issue to be reviewed on the record of the Workers' Compensation Commission, to require certain attachments to the petition under certain circumstances, to require service of the petition and attachments on the Attorney General under certain circumstances, to permit electronic service of a certain notice under certain circumstances, and to make stylistic changes, as follows:

Rule 7-202. METHOD OF SECURING REVIEW

(a) By Petition

A person seeking judicial review under this chapter shall file a petition for judicial review in a circuit court authorized to provide the review.

(b) Caption

The Petition shall be captioned as follows:

IN THE CIRCUIT COURT FOR _____	*	
PETITION OF _____	*	
[name and address]		
FOR JUDICIAL REVIEW OF THE DECISION OF THE	*	CIVIL
_____	*	ACTION
[name and address of administrative agency that made the decision]	*	No. _____

IN THE CASE OF _____ *

[caption of agency proceeding, *
including agency case number]

(c) Contents of Petition; Attachments

(1) Contents The petition shall:

(A) request judicial review;

(B) identify the order or action of which review is sought; ~~and~~

(C) state whether the petitioner was a party to the agency proceeding, ~~and~~ if if the petitioner was not a party, ~~the petition shall to the agency proceeding,~~ state the basis of the petitioner's standing to seek judicial review; and

(D) ~~if~~ if the judicial review sought is of a decision of the Workers' Compensation Commission ~~is sought,~~ state whether any issue is to be reviewed on the record before the Commission and, if it is, identify the issue.

No other allegations are necessary.

(2) Attachments—Review of Workers' Compensation Commission Decision

If review of a decision of the Workers' Compensation Commission is sought, the petitioner shall attach to the petition:

(A) a certificate that copies of the petition and attachments were served pursuant to subsection (d)(2) of this Rule, and

(B) if no issue is to be reviewed on the record before the Commission, copies of (i) the employee claim form and (ii) all of the Commission's orders in the petitioner's case.

(d) Copies; Filing; Mailing

(1) Notice to Agency

Upon filing the petition, the petitioner shall deliver to the clerk a copy of the petition for the agency whose decision is sought to be reviewed. The clerk shall promptly mail a copy of the petition to the agency, informing the agency of the date the petition was filed and the civil action number assigned to the action for judicial review.

(2) Service by Petitioner in Workers' Compensation Cases

Upon filing a petition for judicial review of a decision of the Workers' Compensation Commission, the petitioner shall serve a copy of the petition, together with all attachments, by first-class mail on the Commission and each other party of record in the proceeding before the Commission. If the petitioner is requesting judicial review of the Commission's decision regarding attorneys' fees, the petitioner also shall serve a copy of the petition and attachments by first-class mail on the Attorney General.

(3) By Agency to Parties

(A) Generally

Unless otherwise ordered by the court, the agency, upon receiving the copy of the petition from the clerk, shall give written notice promptly by ~~ordinary~~ first-class mail or, if permitted by subsection (d)(3)(B), electronically to all parties to the agency proceeding that:

~~(A)~~ (i) a petition for judicial review has been filed, the date of the filing, the name of the court, and the civil action number; and

~~(B)~~ (ii) a party wishing to oppose the petition must file a response within 30 days after the date the agency's notice was mailed unless the court shortens or extends the time.

(B) Electronic Notification in Workers' Compensation Cases

The Commission may give the written notice required under subsection (d)(3)(A) of this Rule electronically to a party to the Commission proceeding if the party has subscribed to receive electronic notices from the Commission.

(e) Certificate of Compliance

Within five days after mailing or electronic transmission, the agency shall file with the clerk a certificate of compliance with section (d) of this Rule, showing the date the agency's notice was mailed or electronically transmitted and the names and addresses of the persons to whom it was mailed. Failure to file the certificate of compliance does not affect the validity of the agency's notice.

Source: This Rule is in part derived from former Rule B2 and is in part new.

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AMEND Rule 7-206 by making it inapplicable to judicial review of decisions of the Workers' Compensation Commission except under certain circumstances, as follows:

Rule 7-206. RECORD – GENERALLY

(a) Applicability

This Rule does not apply to judicial review of a decision of the Workers' Compensation Commission, except as otherwise provided by Rule 7-206.1.

~~(a)~~ (b) Contents; Expense of Transcript

The record shall include the transcript of testimony and all exhibits and other papers filed in the agency proceeding, except those papers the parties agree or the court directs may be omitted by written stipulation or order included in the record. If the testimony has been recorded but not transcribed before the filing of the petition for judicial review, the first petitioner, if required by the agency and unless otherwise ordered by the court or provided by law, shall pay the expense of transcription, which shall be taxed as costs and may be apportioned as provided in Rule 2-603. A petitioner who pays the cost of transcription shall file with the agency a certification of costs, and the agency shall include the certification in the record.

~~(b)~~ (c) Statement in Lieu of Record

If the parties agree that the questions presented by the action for judicial review can be determined without an examination of the entire record, they may sign and, upon approval by the agency, file a statement showing how the questions arose and were decided and setting forth only those facts or allegations that are essential to a decision of the questions. The parties are strongly encouraged to agree to such a statement. The statement, any exhibits to it, the agency's order of which review is sought, and any opinion of the agency shall constitute the record in the action for judicial review.

~~(e)~~ (d) Time for Transmitting

Except as otherwise provided by this Rule, the agency shall transmit to the clerk of the circuit court the original or a certified copy of the record of its proceedings within 60 days after the agency receives the first petition for judicial review.

~~(d)~~ (e) Shortening or Extending the Time

Upon motion by the agency or any party, the court may shorten or extend the time for transmittal of the record. The court may extend the time for no more than an additional 60 days. The action shall be dismissed if the record has not been transmitted within the time prescribed unless the court finds that the inability to transmit the record was caused by the actor omission of the agency, a stenographer, or a person other than the moving party.

~~(e)~~ (f) Duty of Clerk

Upon the filing of the record, the clerk shall notify the parties of the date that the record was filed.

Source: This Rule is in part derived from former Rule B7 and in part new.

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ADD new Rule 7-206.1, as follows:

Rule 7-206.1. RECORD – JUDICIAL REVIEW OF DECISION OF THE
WORKERS' COMPENSATION COMMISSION

(a) Applicability

This Rule applies only in an action for judicial review of a decision of the Workers' Compensation Commission.

(b) If Review is on the Record

Subject to section (d) of this Rule, Rule 7-206 governs the preparation and filing of the record if judicial review of an issue is on the record of the Commission.

(c) If No Issue is to be Reviewed on the Record

If no issue is to be reviewed on the record of the Commission:

- (1) a transcript of the proceedings before the Commission shall be prepared in accordance with Rule 7-206 (b), included in the Commission's record of the proceeding, and made available to all parties electronically in the same manner as other Commission documents;
- (2) the transcript and all other portions of the record of the proceedings before the Commission shall not be transmitted to the circuit court unless the court, on motion of a party or on the court's own initiative, enters an order requiring the preparation and filing of all or part of the record in accordance with the provisions of Rule 7-206 and section (d) of this Rule; and
- (3) regardless of whether the record or any part of the record is filed with the court, payment

for and the timing of the preparation of the transcript shall be in accordance with Rule 7206 (b), (d), and (e). Committee note: Section (c) of this Rule does not preclude a party from obtaining from the Commission a transcript of testimony or copies of other parts of the record upon payment by the party of the cost of the transcript or record excerpt.

(d) Electronic Transmission

If the Commission is required by section (b) of this Rule or by order of court to transmit all or part of the record to the court, the Commission shall file electronically if the court to which the record is transmitted is the circuit court for an “applicable county” as defined in Rule 20-101 (c).

Cross reference: See Code, Labor and Employment Article, §9-739.

Source: This Rule is new.