



ADMINISTRATIVE RULES OF MONTANA



37.62.925 AMENDMENTS

- (1) A contested case notice may be amended by the CSSD at any time before an order is issued resolving the notice. Except when the notice is amended during hearing, the amended notice shall be served on all parties in accordance with ARM 37.62.917.
 - (a) Except as provided in (1)(c), a party who has responded to the contested case notice as provided in ARM 37.62.909 does not need to respond to or request a hearing on the amended notice.
 - (b) If a party did not respond to the original notice as provided in ARM 37.62.909, the party may respond to the amended notice within the time frames provided in the amended notice.
 - (c) If a party did respond to the original notice and the party's request for hearing was denied for any reason, the party may respond to the amended notice as provided in ARM 37.62.909 and request a new hearing with regard to the issues claimed in the amended notice.
 - (d) The response time shall be the same number of days as allowed by statute or rule for requesting a hearing on the original notice. The time for responding to an amended notice begins on the day after the amended notice is served.
- (2) During a hearing a party may seek to offer evidence relating to new issues not raised in the contested case notice or in the party's response to the notice. With the express or implied consent of the parties, the contested case notice or response may be deemed amended to conform to evidence which is relevant and material to issues within the scope of the CSSD's authority.
- (3) If a party objects to evidence offered at a hearing on grounds that the evidence is not within the issues raised by the contested case notice or the response to the notice, the ALJ may allow the notice or response to be amended upon a showing that the evidence is relevant and material to issues within the scope of the CSSD's authority. If the amendment causes a surprise element to be introduced during a hearing, the ALJ may recess or adjourn the hearing to enable the objecting party to meet, refute, or rebut such evidence and may also order the exchange of additional relevant information or exhibits. The hearing record shall remain open and the ALJ shall set a specific time and date for the hearing to be reconvened. When a hearing is reconvened, it will be for the limited purpose of allowing the objecting party to meet, refute or rebut the evidence submitted by surprise in the prior hearing. This remedy may be had in addition to, or in conjunction with, any other remedy provided by these rules.

Implementing statute(s): 17-4-105, 40-5-157, 40-5-202, 40-5-208, 40-5-226, 40-5-233, 40-5-261, 40-5-271, 40-5-273, 40-5-414, 40-5-431, 40-5-703, 40-5-710, 40-5-821, 40-5-822, 40-5-823, 40-5-824, 40-5-906, MCA

History: NEW, 2000 MAR p. 3547, Eff. 12/22/00; AMD, 2020 MAR p. 966, Eff. 5/30/20.