



ADMINISTRATIVE RULES OF MONTANA

24.8.734 APPEARANCE, DISMISSAL, AND DEFAULT

- (1) Answers to complaints following the service of the notice of hearing are not required. The contentions of the parties and fair notice of them to prepare for hearing shall be developed through discovery and/or prehearing orders.
- (2) Each party shall make its appearance in a contested case within 20 days of the date on which service of the notice of hearing is made upon the party or his or her legal representative. Appearance shall be in the form of a written notice acknowledging service of certification, and a designation of the name, address, and telephone number of the attorney for a party. If a party chooses not to be represented by counsel, such fact shall be indicated in the written appearance. This rule is subject to the provisions of 2-4-106, MCA, and Rule 4D of the Montana Rules of Civil Procedure governing service by mail.
- (3) In the event a party fails to appear, fails to comply with an order, fails to prosecute or defend the case, fails to engage in discovery, or otherwise fails to do an act required by law or these rules, the hearing officer may enter an appropriate order terminating the contested case or limiting prosecution or defense of the contested case. Such orders may include dismissal of a complaint, entry of default, disposition by informal procedure, or entry of other appropriate orders.
- (4) A party may be relieved of any of the sanctions provided in (3) upon a showing of excusable neglect, good cause, and a good faith willingness to comply with the further orders of the hearing officer or the commission. A party may request such relief by the filing of a motion and supporting affidavit within ten days of the entry of an order imposing such sanctions.
- (5) Upon the entry of a default against a respondent, the hearing officer may fix a date or procedures for informal disposition of the complaint. Upon the default, the charging party must present evidence in support of the complaint and proof of damages.
- (6) Before the entry of an order of dismissal of a complaint, on any basis other than a decision on the merits, in cases where the department has made a reasonable cause determination, the hearing officer shall notify the department of the proposed dismissal of the case in order to permit the department an opportunity to intervene or seek redesignation for the limited purpose of obtaining the appropriate affirmative relief.

Authorizing statute(s): 49-2-204, 49-3-106, MCA

Implementing statute(s): 2-4-106, 2-4-603, 49-2-505, 49-3-315, MCA

History: NEW, 2008 MAR p. 2636, Eff. 12/25/08.