



ADMINISTRATIVE RULES OF MONTANA



37.62.945 PROCEDURE AT HEARING

- (1) The presiding ALJ shall direct the order of presentation of evidence and cross-examination and shall limit the scope of the hearing in conformity with the prehearing status conference.
- (2) The ALJ may enter appropriate oral orders during the hearing to control the conduct of witnesses, the parties or their attorneys, including conduct which is disruptive or constitutes contempt of the ALJ or the administrative hearing process.
- (3) The hearing may be continued with recesses as determined by the presiding ALJ.
- (4) With the exception of matters limited by the prehearing status conference or excluded under ARM 37.62.937, to the extent necessary for full disclosure of relevant facts and issues, the presiding ALJ shall afford all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence. Evidence that is incompetent, irrelevant, immaterial, or unduly repetitious may be excluded.
- (5) Evidence may be presented through exhibits and testimony of the parties or other witnesses. Testimony may be given in narrative fashion by witnesses or by question and answer. All oral testimony must be under oath or by affirmation. The presiding ALJ may exclude witnesses from the hearing so that they cannot hear the testimony of other witnesses.
 - (a) Under the provisions of ARM 37.62.949, officially noticed facts and law may be admissible without requiring foundation testimony.
- (6) When there are multiple parties in the case, after the opportunity provided for under (4), at the ALJ's discretion a party may be excused and allowed to withdraw from any remaining part of the hearing which is not specific to that party.
- (7) During the course of the hearing the ALJ may:
 - (a) question the parties and their witnesses to elicit full disclosure of all pertinent facts; and
 - (b) inquire into any circumstance or other matter the ALJ may find pertinent and relevant.
- (8) Only evidence that is offered and received during the hearing or submitted following the hearing with the permission of the presiding ALJ may be considered in rendering a decision.
- (9) At the conclusion of a hearing, the presiding ALJ may leave the record open and may order or permit submission of additional evidence or post hearing briefs. The ALJ shall set a schedule for the exchange of such additional evidence or briefs. The record is considered closed either at the conclusion of the hearing or, if ordered or permitted, upon the due date for the submission of the materials. Evidence and other materials submitted after the due date or without permission of the

presiding ALJ may be returned to the submitting party and may not be considered by the ALJ when deciding the case.

- (10) The ALJ shall cause the hearing to be recorded at the CSSD's expense. The CSSD is not required to prepare a transcript at its own expense. Any interested person, at the person's expense, may request a typed transcription of the recording or may cause additional audio, video, or stenographic recordings to be made during the hearing if the making of additional recordings does not cause distraction or disruption.
- (11) CSSD hearings are open to public observation, except for the parts that the presiding ALJ declares to be closed pursuant to a provision of law authorizing closure. If the hearing is conducted by telephone, the availability of public observation is satisfied by allowing interested persons to observe and listen to the hearing at the location of any one of the participants or to listen to or inspect the audio tape record or to inspect any transcript obtained by the CSSD.

Authorizing statute(s): 17-4-105, 40-5-202, 40-5-262, 40-5-272, 40-5-273, 40-5-405, 40-5-713, 40-5-825, 40-5-906, MCA

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, 2017 MAR p. 135, Eff. 1/21/17; AMD, 2020 MAR p. 966, Eff. 5/30/20.