



ADMINISTRATIVE RULES OF MONTANA



37.62.921 MOTIONS

- (1) Prior to entry of an order resolving a contested case notice, a party may seek relief in that case by means of an appropriate motion. Appropriate motions may include motions to dismiss, motions for summary judgment, motions for continuance and similar other motions.
- (2) Motions shall state:
 - (a) the relief sought by the party;
 - (b) the grounds and authority supporting the motion; and
 - (c) any prejudice which could result if the motion is not granted.
- (3) All motions which assert factual matters not of record must be accompanied by affidavits or exhibits which show the facts that are the grounds for the proposed relief. The failure to provide affidavits or exhibits shall be deemed an admission that the asserted facts do not exist.
- (4) Each motion must also be accompanied by a brief or memorandum of law showing the moving party's entitlement to relief.
- (5) Upon receipt of a filed motion the ALJ will set a schedule for the other parties to file responses to the motion and to file answer or reply briefs or memorandums of law.
- (6) The failure of a party to file a brief or memorandum of law may subject the motion to summary ruling, and failure of a moving party to file a brief in support of the motion may be treated as an admission the motion is without merit. The failure to file an answer brief may be treated as an admission the motion is well taken and should be granted. The filing of a reply brief by the moving party is optional.
- (7) If the moving party wants the ALJ to take immediate action on a motion, the motion should state that opposing parties have been contacted and have no objection to the motion; the moving party should advise the OALJ of the contact and non-objection when filing the motion, so the motion can be immediately brought to the attention of the ALJ. All uncontested motions should be accompanied by a proposed order with sufficient copies for the OALJ to mail to all other parties. If another party objects to the motion or if there is no indication whether another party objects, the motion will be decided as provided in (5) , (6) and (8) .
- (8) Unless the ALJ determines that oral argument would be beneficial to determination of the motion, oral arguments will not be permitted. Motions will be decided on the briefs and other papers submitted in support of the motion. Motions will be deemed submitted at the time set for filing the final brief.

- (9) If the ALJ does not render a decision with regard to the motion before entering an order resolving the contested case notice, the motion shall be deemed denied.
- (10) Nothing in this rule shall be construed to preclude the oral presentation of motions or objections related to evidence, motions for summary judgment or other matters arising at the hearing.

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

Implementing statute(s): Sec. 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 and 40-5-906, MCA

History: NEW, 2000 MAR p. 3547, Eff. 12/22/00.