

**Superseded 5/10/2016**

**49-11-613 Appeals procedure -- Right of appeal to hearing officer -- Board reconsideration --  
Judicial review.**

- (1)
  - (a) A member, retiree, participant, alternative payee, covered individual, employer, participating employer, and covered employer shall inform themselves of their rights and obligations under this title.
  - (b) Subject to the provisions in Subsection (8), any dispute regarding a benefit, right, obligation, or employment right under this title is subject to the procedures provided under this section.
  - (c) A person who disputes a benefit, right, obligation, or employment right under this title shall request a ruling by the executive director who may delegate the decision to the deputy director.
  - (d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any benefit, right, obligation, or employment right under this title shall request a review of that claim by a hearing officer.
  - (e) The executive director, on behalf of the board, may request that the hearing officer review a dispute regarding any benefit, right, obligation, or employment right under this title by filing a notice of board action and providing notice to all affected parties in accordance with rules adopted by the board.
- (2) The hearing officer shall:
  - (a) be hired by the executive director after consultation with the board;
  - (b) follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, except as specifically modified under this title;
  - (c) hear and determine all facts relevant to a decision, including facts pertaining to applications for benefits under any system, plan, or program under this title and all matters pertaining to the administration of the office; and
  - (d) make conclusions of law in determining the person's rights under any system, plan, or program under this title and matters pertaining to the administration of the office.
- (3) The board shall review and approve or deny all decisions of the hearing officer in accordance with rules adopted by the board.
- (4) The moving party in any proceeding brought under this section shall bear the burden of proof.
- (5) A party may file an application for reconsideration by the board upon any of the following grounds:
  - (a) that the board acted in excess of its powers;
  - (b) that the order or award was procured by fraud;
  - (c) that the evidence does not justify the determination of the hearing officer; or
  - (d) that the party has discovered new material evidence that could not, with reasonable diligence, have been discovered or procured prior to the hearing.
- (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or remand the application to the hearing officer for further consideration.
- (7) A party aggrieved by the board's decision may obtain judicial review by complying with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.
- (8) The program shall provide an appeals process for medical claims that complies with federal law.
- (9) The board may make rules to implement this section.