

CHAPTER HEADINGS

How to Start an Administrative Appeal

Memorandum

Appealing a Decision of the Workers' Compensation Commission

Where to Get Help

Review

Hello. In this video I am going to talk about administrative appeals. These are cases that start with a state or local government agency such as the Motor Vehicle Administration or the Maryland Insurance Administration. These agencies have some power to make decisions like a court, but are not part of the Maryland Judiciary. When you disagree with an agency's decision, you have the right to appeal. The first appeal usually goes to the Office of Administrative Hearings. If you are still dissatisfied with the outcome, you can appeal a second time to the circuit court.

This video is about that second appeal, the one that goes to the circuit court. We will cover how to start your appeal at the circuit court, what is involved when filing the required memorandum, and special rules that apply to worker's compensation cases.

One more thing before we start. Administrative appeals can be very complicated. Whenever possible hire a lawyer to represent you. If you are going to file your own appeal, I am here to help with some general information. Let's begin with how to start an administrative appeal.

Chapter Heading: How to Start an Administrative Appeal

First, the Office of Administrative Hearings will notify you in writing of their decision. The notice will say that you have the right to appeal to the circuit court. There will be a date on the notice of when it was sent. You must file your appeal within 30 days from this date.

If you decide to appeal, the first thing you want to do is file something called a Petition for Judicial Review. There is no standard form. You will need to draft the Petition on your own. You can find a sample form by searching for Maryland Rule 7-202. If you need help creating the Notice visit mdcourts.gov/aa. File your Petition for Judicial Review in the circuit court in the county where you live. Just so you know, there is a fee to file. Once you submit the Petition, the circuit court will ask the agency for the records of your case.

Your next step is to work on a memorandum.

Chapter Heading: Memorandum

This is a legal document that each side writes and submits to the court. In your memorandum, you must explain the facts surrounding the case, what parts of the case you want the court to review, and your

arguments as to why the court should rule in your favor. The argument should include references to the record. And a bit of a warning . . . this is the hard part, your argument should also include the laws and cases that support your position. This is why most people should hire a lawyer. In a minute, I'll tell you how you can get some legal help.

Keep track of when the court notified you that they received the record from the agency. Submit your memorandum within 30 days from that date. If you do not, your case will be dismissed. The agency may also submit a memorandum. Then a judge will review the record and the memoranda.

The next stage of the case is called oral argument.

Chapter Heading: Oral Argument

This is a hearing where each side can argue their position to the judge. At these hearings, the judge will not consider new evidence except in very limited circumstances. After the hearing, the judge will mail you a written decision.

Now I have a question for you? Are you appealing a decision of the Workers' Compensation Commission?

Chapter Heading: Appealing a decision of the Workers' Compensation Commission

If so, the process has a few key differences. This gets pretty complicated, so hold on we will try to break it down.

- First, there is no fee to file the Notice of Appeal. This is the document we discussed earlier, giving notice that you intend to appeal the decision of the Office of Administrative Hearings.
- Second, when you start the case, you are responsible for serving the Commission and all other interested parties. To learn more about how to serve someone, watch our video on Service of Process in the Circuit Court.
- Third, you are not required to write a memorandum.
- Fourth, the court will hold a *de novo* trial. This is a new trial where the court may consider new evidence and new arguments.
- And last, you may request a jury trial.

Now let's discuss where to Get Help.

Chapter Heading: Where to Get Help

What we have just talked about is a general overview of administrative appeals. This is a complicated process. Doing it alone can be hard. Writing a memorandum is very difficult for non-lawyers. Read more about the process at mdcourts.gov/aa.

If you need help finding a lawyer, watch our video titled *Finding Legal Help in a Civil Case*. If you are not already represented, you can get free advice from a lawyer at a Maryland Court Help Center. Call 410-260-1392 or visit mdcourts.gov/helpcenter.

If you decide to represent yourself, you will need to do some research. Consider visiting a law library. A law librarian may be able to direct you to the right resources. A list of hours and locations is at mdcourts.gov/ccl.

Let's review what you have learned.

Chapter Heading: Review

After they hear your case, the Office of Administrative Hearings will send you a letter with their decision. If you disagree, you may appeal to the circuit court within 30 days. At the circuit court, submit a notice of appeal and filing fee. The court will request the record of your case. Once the record is received, the court will notify you of the date they received the record. You must submit a memorandum within 30 days of that date. The other side may also submit a memorandum. Next, the court will hold a hearing called oral argument. And finally, the Court will send a written decision in the mail. I hope this information has been helpful. Thanks for watching.