

## Chapter LIRC 1

### GENERAL

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**LIRC 1.01 General.** The labor and industry review commission has jurisdiction for review of cases arising under ss. 40.65 (2), 102.18 (3) and (4), 106.04 (10), 106.07 (4), 108.09 (6), 108.10 (2) and (3), 111.39 (5) (a), 303.07 (7) and 303.21, Stats.

**History:** Cr. Register, March, 1981, No. 303, eff. 4-1-81; am. Register, August, 1982, No. 320, eff. 9-1-82; am. Register, January, 1985, No. 349, eff. 2-1-85; am. Register, May, 1997, No. 497, eff. 6-1-97.

**LIRC 1.02 Petitions for commission review.** All petitions for commission review shall be received, or, in unemployment compensation, received or postmarked, within 21 days from the date of mailing of the administrative law judge's findings and decision or order, except as provided under this section. "Received" means physical receipt. A mailed petition postmarked on or prior to the last day of an appeal period, but received on a subsequent day is not a timely appeal, except in unemployment compensation. All petitions shall be in writing. The last day of an appeal period shall be on the next business day if the last day for filing falls on any of the following:

- (1) January 1.
- (1m) The third Monday in January.
- (1r) The third Monday in February.
- (3) The last Monday in May.
- (4) July 4.
- (5) The first Monday in September.
- (5m) The second Monday in October.
- (5r) November 11.
- (6) The fourth Thursday in November.
- (7) December 24, 25 or 31.
- (8) The Monday following if January 1, July 4 or December 25 falls on Sunday.
- (9) Any other day on which mail is not delivered by the postal authorities.

**History:** Cr. Register, March, 1981, No. 303, eff. 4-1-81; am. Register, August, 1982, No. 320, eff. 9-1-82; am. (intro.), (3), (5), (6) and (8), cr. (1m), (1r), (5m) and (5r), Register, January, 1985, No. 349, eff. 2-1-85; am. (intro.) and (1m), Register, May, 1988, No. 389, eff. 6-1-88; am. Register, May, 1997, No. 497, eff. 6-1-97.

**LIRC 1.025 Faxed petitions.** Petitions for review may be filed by facsimile transmission. The date of transmission recorded by the facsimile machine shall constitute the date of filing the petition.

**History:** Cr. Register, May, 1997, No. 497, eff. 6-1-97.

**LIRC 1.026 Cross-petitions.** Any party may file a petition for review, whether or not any other party has already filed a petition for review. The filing of a petition for review by one party does not extend the time within which any other party may file a petition for review. All petitions for review, including cross-petitions, are subject to the requirements of s. LIRC 1.02 concerning timeliness.

**History:** Cr. Register, May, 1997, No. 497, eff. 6-1-97.

**LIRC 1.027 Answers.** A party opposing a petition for commission review may file an answer with the commission within 21 days from the party's receipt of a copy of the petition. A party filing an answer with the commission shall furnish a copy to the opposing party.

**History:** Cr. Register, May, 1997, No. 497, eff. 6-1-97.

**LIRC 1.03 Withdrawals.** Requests to withdraw petitions shall be in writing. The commission may deny a request by any party to withdraw a petition if the commission has already reviewed and decided the case, but not yet issued its decision, or if the commission considers that withdrawal is not in the best interests of proper administration of the program involved. Denials of withdrawals shall be in writing, but may be included in the findings and decision of the commission.

**History:** Cr. Register, January, 1985, No. 349, eff. 2-1-85; am. Register, May, 1988, No. 389, eff. 6-1-88.

**LIRC 1.04 Review.** Review by the commission is on the record of the case including the synopsis or summary of the testimony or other evidence presented at the hearing, as prepared by the department of workforce development, by the commission, or by an outside contractor, from a tape recording of the hearing or from notes taken at the hearing by the administrative law judge. The commission may also consider the hearing tapes or a transcript of the hearing testimony. Review shall be based on the transcript if a transcript was prepared prior to issuance of the administrative law judge's decision and the administrative law judge used the transcript in arriving at the decision, or if a party shows to the commission that a synopsis is not sufficiently complete and accurate to fairly reflect the relevant and material testimony and other evidence taken.

**History:** Cr. Register, March, 1981, No. 303, eff. 4-1-81; renum. from LIRC 1.03 and am., Register, January, 1982, No. 349, eff. 2-1-85; am. Register, May, 1988, No. 389, No. 6-1-88; r. and recr. Register, May, 1997, No. 497, eff. 6-1-97.

**LIRC 1.045 Obtaining copy of record.** A party in a case before the commission may request the commission to provide a copy of the synopsis of the testimony or other file materials. The commission shall furnish the materials upon request but may charge a fee for photocopying of 20 cents per page. Upon proper showing of financial inability to pay for photocopying, the commission may waive the fee.

**History:** Cr. Register, May, 1997, No. 497, eff. 6-1-97.

**LIRC 1.05 Hearings.** If the record in a case is inadequate for the commission to arrive at a decision, the commission shall remand the case to the department of workforce development to take additional evidence on behalf of the commission.

**Note:** The commission does not conduct hearings as part of its review.

**History:** Cr. Register, March, 1981, No. 303, eff. 4-1-81; renum. from LIRC 1.04, Register, January, 1985, No. 349, eff. 2-1-85; r. and recr. Register, May, 1997, No. 497, eff. 6-1-97.

**LIRC 1.06 Oral argument.** The commission may grant a written request for oral argument if it determines that an issue would be more clearly presented by oral argument.

**Note:** The commission does not consider oral argument to be necessary because review is on the basis of the record, the parties have the right to file briefs, and oral argument delays disposition of the petition.

**History:** Cr. Register, March, 1981, No. 303, eff. 4-1-81; renum. from LIRC 1.05, Register, January, 1985, No. 349, eff. 2-1-85; r. and recr. Register, May, 1997, No. 497, eff. 6-1-97.

**LIRC 1.07 Briefs.** Either party may request the commission to establish a briefing schedule. Requests to file briefs may be made in the petition for review, in an answer, or in writing after

the petition and answer. The commission may deny a request to file a brief which is not made in a petition or answer if the commission has already reviewed the case but not yet issued its decision at the time the request is made. Each party may file with the commission briefs or memoranda within the time limits of the briefing schedule established by the commission. Requests for extensions of time for filing briefs shall be made in writing. Extensions may be approved in writing upon good cause shown. A party filing a brief or memorandum with the commission shall furnish a copy to the opposing party.

**History:** Cr. Register, January, 1985, No. 349, eff. 2-1-85; am. Register, May, 1997, No. 497, eff. 6-1-97.