

## **Title 19: Department of Insurance**

### **Part 1: General**

#### **Part 1 Chapter 44: Administrative Hearing Procedures Specific to COVID-19**

##### **Rule 44.01 Authority**

On March 14, 2020, Governor Tate Reeves declared a state of emergency invoking his emergency powers pursuant to Miss. Code Ann. § 33-15-11, and directed state agencies to discharge their emergency responsibilities as deemed necessary. In accordance with the Proclamation and Miss. Code Ann. §§ 33-15-11(b)(9) and 33-15-11(c)(4), there was a delegation of those emergency powers to the Commissioner of Insurance which allows him, in his discretion, to promulgate emergency regulations and guidelines to promote and secure the safety and protection of the citizens of this State. In an effort to protect public safety and prevent the spread of COVID-19, this temporary rule is being promulgated to establish the procedures regarding telephonic, videoconference, or in-person proceedings for formal administrative hearings before the Commissioner of Insurance until further notice.

Source: Miss. Code Ann. § 33-15-11 (1972, as amended); Miss. Exec. Order 1471 (April 10, 2020).

##### **Rule 44.02 Hearings**

- A. Formal Hearings** - In every case of adjudication in cases of a denial, revocation or suspension of any license or certificate of authority, and in cases of rule-making, where rules must be made after a hearing, and in all cases where required by the Insurance Code, a hearing shall be conducted by telephone or videoconference until further notice. The Commissioner of Insurance reserves the right to determine on his own motion, or upon a showing of good cause, that the use of telephone or videoconference is not feasible for a particular hearing, or that justice requires the the parties be permitted to appear in-person.
- B. Remote Participation** -The Commissioner may require proceedings and appearances to be by telephone or videoconference without any requirements for a motion or agreement of the parties.
1. **Request for In-Person Proceeding;** A request for an in-person proceeding shall include a petition setting forth the reasons why remote participation is not feasible and/or not in the interest of justice. The Commissioner shall have sole authority as to whether to grant an in-person proceeding.
  2. **Exhibits and Evidence:** The parties shall communicate and pre-file documentary evidence and/or exhibits with the Commissioner or the Hearing Officer, if one has been designated, not less than three (3) days prior to the hearing date.
    - a. Parties shall file exhibits electronically when possible.

- b. Absent good cause, exhibits that are not pre-filed will not be admitted into the record.
3. **Videoconferences:** All videoconferences shall be hosted using a videoconference platform controlled or approved by the Department.
4. **Court-Reporting Services:** Should a party wish to use a court-reporting service, that service must be provided remotely.

**C. Requirements for In-Person Proceedings.** Should the Commissioner determine that remote participation is not feasible and/or not in the interest of justice, a case may be set for an in-person proceeding. Until further notice, any case set for in-person proceeding may be subject to requirements imposed for purposes of ensuring public health and safety, including but not limited to:

1. Lawyers, parties, and witnesses may be required to wait outside of the Department of Insurance offices until their hearing is called.
2. Parties to in-person proceedings should wear face coverings where possible.
3. When applicable, parties handling physical exhibits should anticipate using sanitizer and wearing gloves as a protective measure.
4. Parties with a positive COVID-19 test, or a flu-like symptoms – including fever, headache, coughing, or sneezing- shall not appear in-person at the Department and shall contact the Department legal staff prior to the proceeding. In such an instance, a continuance will be automatically granted.
5. Parties to in-person proceedings may file a motion with the Commissioner to request remote participation in the proceeding.

Source: Miss. Code Ann. § 33-15-11 (1972, as amended); Miss. Exec. Order 1471 (April 10, 2020).

**Rule 44.03: Effective Date**

This temporary rule shall become effective upon filing with the Office of the Secretary of State.

Source: Miss. Code Ann. § 25-43-3.106 (Rev. 2010)