

## **APPEALING A CASE TO THE COURT OF APPEALS FROM THE VWC**

1. The original of your Notice of Appeal must be filed with the Clerk of the Commission within thirty (30) days of the date of the Review Opinion. You may file in person, by regular mail or certified mail. The Commission will accept the date of the postage meter on certified mail as the date of filing, which may be helpful to you if the thirtieth day is near. The Commission has a fee of \$35.00 for certification of the record. If you file a Motion to Waive the Appeal Bond, the Commission will automatically waive the certification fee.

Address: Marjorie P. Platt, Clerk Phone: 804-205-3569  
Virginia Workers' Compensation Commission  
1000 D.M.V. Drive  
Richmond, Virginia 23220

2. A copy of the Notice of Appeal must be sent to all parties and a copy must also be filed with the Court of Appeals along with \$50.00 for their filing fee. If you cannot afford the \$50.00 filing fee, you may request, in writing to the Court of Appeals, that it be waived.

Address: Cynthia L. McCoy, Clerk Phone: 804-371-8428  
Court of Appeals  
109 North 8th Street  
Richmond, Virginia 23219

3. In accordance with Virginia Code Section 8.01-676.1, the Court of Appeals requires that a \$500.00 Appeal Bond be filed with each Notice of Appeal. This bond may be in the form of a certified cashier's check made payable to the Treasurer of Virginia or you may be able to obtain a surety bond through a bonding or insurance company. The Appeal Bond should be sent with the original notice to the Clerk of the Virginia Workers' Compensation Commission. The appeal bond will be refunded to you when the case is concluded in the Court of Appeals and the record is returned to the Commission, if you have paid all costs and fees which may be assessed against you, provided the Commonwealth does not have a lien against you for unpaid state taxes or unpaid child support.

There are two possible exceptions to the requirement for the \$500 appeal bond. The first is indigency. If you cannot afford to pay the \$500 Appeal Bond, Virginia Code subsection N of §8.01-676.1, provides: "No person who is an indigent shall be required to post security for an appeal bond". If you seek a waiver of the bond because of indigency, you should contact the Court of Appeals for an Affidavit of Indigence form. Your signature on the affidavit must be notarized and it should be sent to the Court of Appeals without delay, where upon receipt, the Court of Appeals will rule on the Motion

and make a decision as to whether you will have to file the appeal bond or if you will be allowed to proceed without the requirement of an Appeal Bond.

In addition, subsection O of §8.01-676.1 provides that “No claimant who files an appeal from a final decision of the Virginia Workers' Compensation Commission with the Court of Appeals shall be required to post security for costs...if such claimant has not returned to his employment or by reason of his disability is unemployed. Such claimant shall file an affidavit (a sworn statement) describing his disability and employment status with the Court of Appeals together with a Motion to Waive the filing of the security...”If you have not returned to work or are unemployed because of a disability, you should contact the Court of Appeals for additional information concerning the required affidavit and Motion.

4. When your case is in the Court of Appeals, you will be required to file a brief. The Court of Appeals will notify you, by mail, giving you the date your brief is due. If you need additional time, contact the Court of Appeals directly. Failure to follow all procedures as set forth by the Court of Appeals may result in having your appeal dismissed for procedural reasons.

IF YOU HAVE ANY QUESTIONS, PLEASE CALL (804) 205-3569 FOR ASSISTANCE

Form No. CO-1  
Revised date: 2/16/11