

Rule 12. Discovery, Motions, and Applications**(a) Discovery**

The voluntary exchange of information is encouraged. Formal discovery is discouraged except that a party is entitled to the following within 30 days of receipt of the request:

- (1) exchange of medical reports;
- (2) medical authorizations directed to all medical providers consulted by the claimant in the seven years prior to the accident;
- (3) employment records and authorizations for two years prior to the accident, when wage loss is in dispute;
- (4) supporting documentation required under No-Fault Arbitration Rule 5; and
- (5) other exhibits to be offered at the hearing.

However, upon application and good cause shown by any party, the arbitrator may permit any discovery allowable under the Minnesota Rules of Civil Procedure for the District Courts. Any medical examination for which the respondent can establish good cause shall be completed within 90 days following the commencement of the case unless extended by the arbitrator for good cause.

The Minnesota Rules of Civil Procedure shall apply to claims for comprehensive or collision damage coverage.

(b) Motions and Applications

Motions and Applications are discouraged. No prehearing motion or application may be submitted by any party for consideration until:

- (1) The parties have conferred either in person, or by telephone, or in writing in an attempt to resolve their differences. The moving/applying party shall initiate the conference. The moving/applying party shall include with its moving/application papers a certification that the movant/applicant has conferred with the other party and which states the outcome of that conference;
- (2) An arbitrator has been appointed in accordance with Rule 8; and
- (3) The fees required by Rule 40(a) have been deposited with the arbitration organization.

If a party, or an officer, director, employee, or managing agent of a party fails to obey an order issued by the arbitrator, the arbitrator may issue such orders in regard to the failure as are just, and among others, those authorized by Minn. R. Civ. P. 37.02(b)(1)-(3). However, where the failure to comply is with an order for a medical examination that requires a party to produce another for the examination, orders authorized by Minn. R. Civ. P. 37.02(b)(1)-(3) shall not be available if the party failing to comply shows that the party is unable to produce such person for examination.

Consistent with Rule 32, an arbitrator shall not award attorney's fees to any party.

(Amended effective March 1, 2016; amended effective February 1, 2020.)

Standing Committee Comments (2019)

No-Fault Arbitration is intended to be a "speedy, informal and relatively inexpensive procedure for resolving controversies." Western National Ins. Co. v. Thompson, 797 N.W.2d 201, 205 (Minn. 2011); Weaver v. State Farm Ins. Companies, 609 N.W.2d 878, 884 (Minn. 2000). However, prehearing motion practice has been increasing. This has increased administrative work for the

arbitration organization, bogged down the efficient processing of filed arbitrations, and has caused arbitrators to expend extra time and resources to analyze the motions and submissions, conduct prehearing legal research and file review, and issue rulings. It has also increased the work and time of the parties to the arbitration. The addition of the part (b) language to the Rule will reaffirm that motion practice is discouraged and stem prehearing motion practice by requiring conditions be met before submitting a prehearing motion, other than for postponement. The conditions are 1) a meet and confer requirement consistent with Minn. R. Civ. P. 37.01(b) and Minn. Gen. R. Pract. 115.10; 2) the deposit of a motion fee by all parties to the motion from which the arbitration organization and the arbitrator will be compensated; and 3) preventing the filing of any motion prior to the appointment of an arbitrator. The additional language also provides the arbitrator with authority to enforce the arbitrator's orders, consistent with Minn. R. Civ. P. 37.02(b)(1)-(3) and the authorities interpreting the same. However, consistent with No-Fault Rule 32, attorney's fees shall not be awarded to any party. Added to part (a) of the Rule is language that parties are entitled to the five Rule 12 items within 30 days of a receipt of a request.