

7406.1800 CONTINUANCES.

Requests for a continuance of a hearing must be granted upon a showing of good cause. Unless time does not permit, a request for continuance of the hearing must be made in writing to the hearing examiner and must be served upon all parties of record. In determining whether good cause exists, due regard must be given to the ability of the party requesting a continuance to effectively proceed without a continuance. A request for a continuance filed within five business days of the hearing must be denied unless the reason for the request could not have been earlier ascertained.

"Good cause" includes: death or incapacitating illness of a party, representative, or attorney of a party; a court order requiring a continuance; lack of proper notice of the hearing; a substitution of the representative or attorney of a party if the substitution is shown to be required; a change in the parties or pleading requiring postponement; and agreement for a continuance by all parties, provided that it is shown that more time is clearly necessary to complete discovery or other mandatory preparation of the case and the parties and the hearing examiner have agreed to a new hearing date; or, the parties are engaged in serious settlement negotiations or have agreed to a settlement of the case which has been or will likely be approved by the final decision maker.

"Good cause" does not include: intentional delay; unavailability of counsel or other representative due to engagement in another judicial or administrative proceeding, unless all other members of the attorney's or representative's firm familiar with the case are similarly engaged, or the notice of the other proceeding was received subsequent to the notice of the hearing for which the continuance is sought; unavailability of a witness if the witness' testimony can be taken by deposition; and failure of the attorney or representative to properly utilize the notice period to prepare for the hearing.

Statutory Authority: *MS s 14.06; 299A.01*

History: *20 SR 2784*

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