



Employer contends *Christensen I* was decided correctly and should not be reconsidered.

**1) Should *Christensen I* be reconsidered?**

Employee's petition contends *Christensen I* made factual errors or failed to consider supplemental evidence, warranting modification.

Employer contends *Christensen I* was decided correctly and no modification is warranted.

**2) Should *Christensen I* be modified?**

FINDINGS OF FACT

All factual findings and conclusions from *Christensen I* and *Christensen v. Kinross Gold USA, Inc.*, AWCB Dec. 21-0075 (*Christensen II*) are incorporated here by reference. A preponderance of the evidence establishes the following facts and factual conclusions:

- 1) *Christensen I* found Employee's May 1, 2020 work injury was the substantial cause of disability and need for treatment and he was medically stable effective November 24, 2020. It awarded TTD benefits, medical and transportation costs, a penalty, interest, \$31,793.00 in attorney fees and \$13,342.27 in costs. *Christensen I* denied Employee's claim for PPI benefits. (*Christensen I*).
- 2) Employee's counsel did not file a petition requesting an order for a PPI rating referral, request that the Board hold this issue in abeyance, or otherwise indicate that PPI was not ripe for adjudication at hearing. (Record).
- 3) Employee's attorney did not testify or provide any additional evidence regarding his request for attorney's fees at hearing. (Record).
- 4) On August 2, 2021, Employee filed a petition seeking "reconsideration of determination of medical stability and denial of PPI benefits and Attorney's fees and costs." He contended:
  - a. The Board erred in finding the employee medically stable and denying PPI benefits; Employee's return to work was evidence only of his disability and not medical stability, and no doctor had addressed medical stability. Even if Dr. Lopez determined Employee had reached medical stability Dr. Lopez did not do PPI ratings and had no referrals. Employer would have denied a request for PPI

rating, and Employee “should not be expected to privately pay for an appointment to obtain a PPI rating prior to receiving a decision from the Board on the compensability of his claim.” Employee asserted no hardship to the parties or the Board if consideration of the PPI issue were withheld. Employee requested reconsideration and modification of *Christensen I* relating to PPI, a finding PPI benefits were not ripe for determination, and an award of 10 hours of attorney’s fees relating to PPI benefits.

- b. The Board did not consider the Employee’s supplemental affidavit of attorney’s fees and costs.
- c. Employee’s attorney’s fees should be awarded at \$385 per hour. Employee asserts the remoteness of this Fairbanks case added to his Anchorage attorney’s difficulty in witness coordination, depositions, discovery, and communication. Employee asserted *Christensen I* involved “complex medical issues involving significant preexisting conditions . . . .”, substantial amounts of benefits were at stake, and two physician’s depositions were required. “Employee’s attorney should be rewarded for speedy, aggressive, successful and efficient resolution of his client’s benefits rather than dragging the claim out for longer with unnecessary discovery and pleadings.”
- d. Employee’s attorney time relating to the PPI issue and writing the hearing brief should not have been reduced. The Board “arbitrarily reduced the employee’s attorney’s fees by 10 hours for billing related to PPI benefits” and “if the Board is going to reduce the hours, it must specifically identify the billing entries it believes were objectionable as related to the PPI issue.” Employee also asserted the Board reduced the hours for writing the hearing brief “by 5 hours without a basis in law or fact. Employee objects to this reduction as the Board did not cite any legal authority supporting the reduction of time . . . .” Employee also disputed individual reductions taken for time “arbitrarily reduced” for large amounts of time billed to complete standardized forms or basic pleadings, again asserting the reductions “lack a basis in law or fact.” The Employee additionally requested that the Board allow him to file a supplemental affidavit of fees and costs for time spent on drafting and filing the petition.

(Petition for Reconsideration or Modification, August 2, 2021).

5) *Christensen II* directed Employee “to clearly allocate his time in billing statements submitted to the board based on the specific subtopics . . . Example: Draft Petition for Reconsideration, 1.0 hours [.3 PPI, .5 fee/cost reductions, .2 fee/cost calculations].” Briefing was limited to 10 pages, with a limit of 5 pages allocated to attorney fee and cost calculations or reductions with no more than five additional pages to address Employer’s defenses. (*Christensen II*).

6) On August 23, 2021, Employer opposed reconsideration of *Christensen I*. Employer contended:

- a. The Board correctly found Employee was medically stable; the limited evidence that Dr. Lopez recommended Employee return for a routine x-ray in 3 months did not rise to the level of clear and convincing evidence needed to overcome the statutory presumption of medical stability.
- b. The Board properly denied PPI benefits where the EME physician did not find a work-related impairment and Employee’s attending physician did not think Employee would have a permanent impairment and did not refer him for a rating. PPI was an issue for hearing, was in dispute, not hypothetical, and was controverted by Employer. Employee did not present any “factual or legal” evidence to support his argument that Employee “should not have to privately pay for an appointment to get a PPI rating before obtaining a compensability decision from the Board”; Employee never requested the carrier authorize an appointment and failed to cite any case law placing the burden on the Employer to ensure Employee gets a PPI rating or otherwise pursues his claim for PPI benefits.
- c. The Board properly considered Employee’s Supplemental Affidavit of Attorney’s Fees and Costs in its award, including awarding \$408.47 in costs from the supplemental invoice.
- d. The Board properly awarded Employee’s counsel fees at \$350.00 per hour. Employer contends Employee’s counsel should not be rewarded for doing his job with questioned efficiency. The Board considered the eight factors from *Rusch* and reduced Employee’s counsel’s hourly rate to \$350.00 per hour, the high end of fees charged in Fairbanks by attorneys with similar experience.

- e. The Board properly reduced Employee's attorney's fees by 15 hours. The Board noted the lack of specific time entries related to PPI and estimated a reasonable time based on the record as a whole (10 hours), well within the Board's discretion. Employee's argument that the Board reduced fees by five hours for writing the hearing brief was incorrect; that time was reduced by 1.3 hours and 3.7 hours were removed relating to other tasks. The Board's reductions for forms and basic pleadings was not arbitrary; each task was specifically identified and the reasoning for the reduction provided.

(Employer's Opposition to Petition for Reconsideration, August 23, 2021).

7) On August 30, 2021, Employee filed a Second Supplemental Affidavit of Attorney's Fees and Costs. Attorney's time and paralegal costs were once again combined; 19.4 hours were billed by attorney Justin Eppler and 18.8 hours billed by paralegal Jackey Hess. Employee's counsel billed at the rate of \$385.00 per hour. The total requested relating to the Petition for Reconsideration and Modification totaled \$10,947.00. The submitted billing entries did not clearly allocate time to the relevant topic per entry despite the mandate of *Christensen II*, but provided an estimate of counsel's breakdown of time across the various topics:

- a. PPI - 30% or \$3,284.10
- b. Fee/cost reductions - 40% or \$4,378.80
- c. Fee/cost calculations - 10% or \$1,094.70
- d. Employer's defenses - 20% or \$2,189.40

(Employee's Second Supplemental Affidavit of Attorney's Fees and Costs, August 30, 2021).

8) On August 30, 2021, Employee filed his eleven-page Reply to Employer's Opposition to Employee's Petition for Reconsideration, asserting Employer's reliance on the Bauer EME regarding PPI was unsupported. Employee also asserted Employer was on notice of Dr. Lopez's request for Employee to have a PPI rating via Dr. Lopez's deposition. Employee contends he could not be required to pay for his own PPI rating, citing to AS 23.30.097(f). Employee also contends clear and convincing evidence that Employee was not medically stable was provided where the x-rays "did not yet show a solid fusion." Employee generally restated his arguments regarding attorney's fees and costs awarded. (Reply to Employer's Opposition to Employee's Petition for Reconsideration, August 30, 2021).

9) *Christensen I* contained an error in its finding of fact number 60. (*Christensen I*). That finding is corrected to reflect that Employee requested 108.38 hours of attorney time at \$385 per hour. (Observation, judgment).

PRINCIPLES OF LAW

**AS 23.30.001. Intent of the Legislature and construction of chapter.** It is the intent of the legislature that

(1) this chapter be interpreted so as to ensure the quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers who are subject to the provisions of this chapter:

....

**AS 23.30.130. Modification of awards.** (a) Upon its own initiative . . . on the ground of a change in conditions . . . or because of a mistake in its determination of a fact, the board may, before one year after the date of the last payment of compensation benefits . . . whether or not a compensation order has been issued, or before one year after the rejection of a claim, review a compensation case under the procedure prescribed in respect of claims in AS 23.30.110. . . .

**AS 23.30.145. Attorney Fees.** . . . .

(b) If an employer fails to file timely notice of controversy or fails to pay compensation or medical or related benefits within 15 days after it becomes due or otherwise resists the payment of compensation or medical and related benefits and if the claimant has employed an attorney in the successful prosecution of the claim, the board shall make an award to reimburse the claimant for the costs in the proceedings, including reasonable attorney fees. The award is in addition to the compensation or medical and related benefits ordered.

....

**AS 23.30.190. Compensation for permanent partial impairment: rating guides.** (a) In case of impairment partial in character but permanent in quality, and not resulting in permanent total disability, the compensation is \$177,000 multiplied by the employee's percentage of permanent impairment of the whole person. . . .

(b) All determinations of the existence and degree of permanent impairment shall be made strictly and solely under the whole person determination as set out in the American Medical Association Guides to the Evaluation of Permanent

Impairment, except that an impairment rating may not be rounded to the next five percent. . . .

Where a claim for PPI is contested, the employee has the duty to obtain a PPI rating either where he does not agree with a rating by the employer’s physician, or where a PPI rating has not already been obtained. *Stonebridge Hospitality Associates, LLC v. Settje*, AWCAC Dec. No. 153 (June 14, 2011). Whether an issue is ripe for adjudication pertains to whether there is an actual controversy between the parties and a need for the court to act. *Id.* PPI benefits were ripe for adjudication where: PPI benefits were clearly at issue for hearing, had been controverted, the parties had adverse legal interests, there was a substantial and immediate controversy between the parties, the pro se Employee knew PPI benefits were at issue, no physician had found a permanent partial impairment from the work injury, Employee had not obtained a PPI rating, and failure to decide the issue was a hardship to Employer including continued exposure to potential liability for PPI and reemployment benefits and increased attorney’s fees and costs. *Id.* The statute required Employee “to obtain a rating, if she wanted an award of PPI benefits and was dissatisfied with [Employer’s] evidence in that respect.” *Id.* at 13.

**AS 23.30.395. Definitions. . . .**

(28) “medical stability” means the date after which further objectively measurable improvement from the effects of the compensable injury is not reasonably expected to result from additional medical care or treatment, notwithstanding the possible need for additional medical care or the possibility of improvement or deterioration resulting from the passage of time; medical stability shall be presumed in the absence of objectively measurable improvement for a period of 45 days; this presumption may be rebutted by clear and convincing evidence;

. . .

A worker’s compensation hearing panel may make a determination of medical stability. *Brown v. State*, 931 P.2d 421 (Alaska 1997). A finding of medical stability is consistent with the statutory definition where medical testimony shows employee is neither disabled by the work injury nor in need of medical treatment of that injury. *Id.*

**AS 44.62.540. Reconsideration.** (a) The agency may order a reconsideration of all or part of the case . . . . To be considered by the agency, a petition for reconsideration must be filed with the agency within 15 days after delivery or mailing of the decision. The power to order reconsideration expires 30 days after the delivery or mailing of a decision to the respondent . . . .

**8 AAC 45.180. Costs and attorney's fees. . . .**

(d) The board will award a fee under AS 23.30.145(b) only to an attorney licensed to practice law under the laws of this or another state.

(1) A request for a fee under AS 23.30.146(b) must be verified by an affidavit itemizing the hours expended as well as the extent and character of the work performed . . . at hearing the attorney may supplement the affidavit by testifying about the hours expended and the extent and character of the work performed after the filing of the affidavit. . . .

(2) In awarding a reasonable fee . . . the board will award a fee reasonably commensurate with the actual work performed and will consider the attorney's affidavit filed under (1) of this subsection, the nature, length, and complexity of the services performed, the benefits resulting to the compensation beneficiaries from the services, and the amount of benefits involved.

. . . .

(f) The board will award an applicant the necessary and reasonable costs relating to the preparation and presentation of the issues upon which the applicant prevailed at the hearing on the claim. The applicant must file a statement listing each cost claimed, and must file an affidavit stating that the costs are correct and that the costs were incurred in connection with the claim. The following costs will, in the board's discretion, be awarded to an applicant:

. . . .

(14) fees for the services of a paralegal or law clerk, but only if the paralegal or law clerk

- (A) is employed by an attorney licensed in this or another state,
- (B) performed the work under the supervision of a licensed attorney;
- (C) performed work that is not clerical in nature;
- (D) files an affidavit itemizing the services performed and the time spent in performing each service; and
- (E) does not duplicate work for which an attorney's fee was awarded;

. . . .

(17) other services as determined by the board.

. . . .



Attorney’s fees in Alaska workers’ compensation cases should be “fully compensatory and reasonable” to ensure injured workers have “competent counsel available to them.” *Childs v. Copper Valley Elec. Ass’n*, 860 P.3d 1184, 1190 (Alaska 1993); *Wise Mechanical Contractors v. Bignell*, 718 P.3d 971 (Alaska 1986). The factors set out in ARPC 1.5(a) are reviewed in each case to determine a reasonable attorney’s fee award. *Rusch v. Southeast Alaska Regional Health Consortium*, 453 P.2d 784, 798 (Alaska 2019). Those factors are:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

Each factor is to be considered and findings or explanation made as to why the factor was not relevant. The presumption of compensability does not apply to the amount of fees and their reasonableness. *Rusch; Soule v. Mid-Town Car Wash*, 1994 WL 16459431 (S. Ct. Alaska, 1994). The Board has broad discretion in awarding attorney’s fees and is tasked with determining the reasonableness of each request. *Rusch; Soule; Wien Air Alaska v. Arant*, 592 P.2d 351 (Alaska 1979). Attorney’s fees of \$350 per hour are “within the range customarily charged for claimant’s work” in Fairbanks, Alaska. *Patton v. Crowley Holdings, Inc.*, AWCBC Dec. No. 19-0131.

## ANALYSIS

### **1. Should *Christensen I* be reconsidered?**

Employee requests reconsideration on multiple bases, addressed individually below.

Medical Stability. Employee was returned to work without any restrictions immediately after his November 24, 2020 appointment with Dr. Lopez. No medical record shows Employee was

treated or needed treatment since November 24, 2020. The panel correctly found Employee was medically stable as of November 24, 2020. AS 23.30.395(28); *Brown*.

PPI Benefits. There is no evidence that Employee sought a PPI rating or Employer refused to pay for a PPI rating. Employee's claim for PPI was controverted by Employer, identified as an issue for hearing, and was ripe at the time of hearing. *Settje*. A PPI rating must be obtained for PPI benefits to be awarded. AS 23.30.190; *Settje*. Employer's counsel did not ask for a PPI rating referral, request that this issue be held in abeyance at hearing, or contend PPI benefits were not ripe to be decided by *Christensen I* before hearing.

Employee contends Dr. Lopez requested a PPI rating referral during his deposition. A review of the deposition does not clearly show a PPI rating referral request; even if it did, Employee should have actively sought a PPI rating prior to hearing. *Settje*. Employee is incorrect in his assertion that there would be no hardship to the parties in deferring a decision on this issue; Employer would have to incur additional attorney's fees and risk potential liability for late PPI payment beyond the time set for hearing.

Attorney Fee Rate. The Board has long held the discretion to review attorney's fee awards within the limitations of being fully compensatory and reasonable. *Rusch; Soule; Bignell; Arant*. Guidance is provided to the reviewing panel via AS 23.30.145, 8 AAC 45.180(d), *Rusch*, and other case law. *Christensen I* reviewed the factors mandated by *Rusch* and found on that basis that \$350 per hour was an appropriate hourly rate in this case: "[a]n award at a higher rate is not supported by a review of factors . . . as mandated by *Rusch*." *Christensen I* at 43. The presumption of compensability does not apply to the amount of fees and their reasonableness. *Rusch; Soule*.

Employee contends that the range of attorney's fees in Fairbanks for attorneys is \$350-\$450, citing *Dale v. Lynden Transport*, AWCB Dec. No. 21-0073 and *Patton v. Crowley Holding, Inc.*, AWCB Dec. No. 19-0131 (December 12, 2019). The hourly rate of \$450 in *Dale* and the billed hours requested were uncontested by Employer; Employee's attorney in *Dale* has significant experience. *Dale; Rogers & Babler*. Employee provided general information regarding his

attorney’s experience which was considered by the panel in awarding fees. Specific evidence regarding counsel’s litigation and/or worker’s compensation experience was not provided (including but not limited to number of civil cases litigated through trial and number of merits hearings, multi-party hearings, litigation of permanent total disability claims, and their successes). Employee’s assertion that \$350 represents the rate for counsel with minimum experience in Fairbanks, Alaska based on *Patton* does not reflect the Board’s own experience or the language of *Patton* that Employee’s attorney’s rate of \$350 was “within the range customarily charged for claimant’s work in Fairbanks . . . .” nor does it address that legal counsel in *Patton* prevailed on all issues at hearing. *Rogers & Babler; Patton*. The panel considered the eight factors mandated by *Rusch* and determined \$350 per hour was an appropriate rate in this case.

Reduction in Hours. Employee contends that the Board made fee reductions in *Christensen I* “without basis in law or fact,” effectively arguing that the panel does not have discretion in determining a reasonable attorney’s fee award. By contrast, the panel has broad discretion to award reasonable attorney’s fees. *Rusch; Soule; Arant*.

Employee asserts that the panel must specifically identify billing entries it believes are objectionable before reducing fees and may not estimate a reasonable reduction. Specific billing entries were identified as unreasonable in *Christensen I*, and fees adjusted accordingly:

Numerous entries for attorney time are duplicative or unduly long for the stated task(s) when the complexity of the issues for hearing are considered:

<u>Date</u>	<u>Item</u>	<u>Billed Time</u>	<u>Other</u>
9/15/2020	Review, finalize . . . .	1.20	Duplicative at least in part with JH time entry of same day, 0.30 hours to “Finalize 4 AWCB medical Summaries for service
11/18/2020	Review and revise . . . .	1.30	Excessive; JH had previously billed 3.6 hours on 11/17 for time entries . . .
12/7/2020	Review and reply . . . .	0.20	Duplicate time entry

4/26/2020	Review and Revise . . . .	1.30	Significant additional time spent drafting, reviewing, and revising hearing brief by experienced paralegal and billing attorney.
5/10/2020	Review file to . . . .	2.00	Total time spent drafting straightforward hearing brief with no unusual circumstances was approximately 25 hours.

Accordingly, five hours will be removed from Employee’s fee award . . . .

*Christensen I* at 43-44. Specific reductions were also made regarding paralegal costs billed at the attorney rate; individual paralegal time entries identified as duplicative or unduly large based on the task(s) listed and the complexity of the case; and four billing entries for unidentified persons (“WM” and “WKM”) who failed to provide required affidavits. *Christensen I* at 45-46.

Attorney’s fees may only be awarded on issues prevailed upon at hearing. AS 23.30.145(b). A significant majority of time entries contained within the fee affidavits were identified only by broad subject matter (i.e., “hearing brief”). The panel was required to estimate the amount of time spent relating to PPI benefits, which Employee did not prevail on at hearing. The Board has broad discretion in determining the reasonableness of attorney’s fees.

Based on the above analyses, *Christensen I* will not be reconsidered.

**2. Should *Christensen I* be modified?**

Employee asserts that *Christensen I* made factual errors warranting modification. Employee contends the panel “erred in finding that [Employee] reached medical stability . . . as of November 24, 2020 . . . .” and in finding that the PPI issue was ripe for determination “without medical evidence that the [E]mployee’s underlying condition resulting from the multilevel cervical fusion was medically stationary . . . .” Employee asserts the panel did not consider his supplemental affidavit of attorney’s fees and costs, and no reductions should be made regarding PPI or writing the hearing brief.

Medical Stability. No factual error is found on review. Modification will not be granted on this issue.

PPI Benefits. No factual error is found on review. Modification will not be granted on this issue.

Attorney Fee Rate. No factual error is found on review. Modification will not be granted on this issue.

Reduction in Hours. A review of the fees awarded reveals a typographical error regarding initial hours billed and an associated computation mistake in the final total. Modification will be granted on this issue.

*Christensen I* reduced Employee's attorney's fees for not prevailing on the issue of PPI benefits (10.0 hours), unidentified personnel (1.0 hours), and excessive time relating to specific billing entries (5.0 hours). These reductions are supported by the record and are not in error.

In awarding attorney's fees and paralegal costs, the Board in *Christensen I* awarded \$31,793.00 in attorney's fees, \$9,592.25 in paralegal costs, and \$3,750.12 in other costs. Corrected calculations for attorney's fees as awarded at \$350 per hour, and paralegal costs as awarded at \$185 per hour are as follows:

Total hours requested by Employee: 109.38 hours attorney fees (including 1.0 hour for unidentified personnel at \$150 per hour) and 56.85 hours paralegal costs.

Attorney's hours billed will be modified as follows:

Original:	109.38	hours requested
Less:	1.00	hours for unidentified personnel (WKM, WM)
Less:	10.00	hours for PPI Issue
Less:	5.00	hours for specified reductions

TODD CHRISTENSEN v. KINROSS GOLD USA, INC.

Total Hours awarded: 93.38 hours at \$350/hour  
Total Revised Attorney's Fees on Modification: \$32,683.00 (93.38 hours x \$350 per hour)

Paralegal costs as calculated in *Christensen I* are correct and will not be modified:

Original: 56.85 hours  
Less: 5.00 hours for specified reductions  
Total Paralegal Hours awarded: 51.85 hours at \$185/hour  
Total Paralegal Costs: \$9,592.25 (51.85 hours at \$185 per hour)

“Hard” costs were previously awarded in the amount of \$3,750.12 and no error is found in those calculations.

Modified attorney's fees and costs for *Christensen I* are awarded in the amounts of \$32,683.00 attorney's fees and \$13,342.37 in costs.

Employee additionally requested attorney's and costs relating to his petition for reconsideration or modification: 19.4 hours of attorney's fees at \$385 per hour and 18.8 hours of paralegal costs for a total of \$10,947.00. No additional “hard” costs were identified. Employee was directed to provide a specific breakdown of billing entries and an example was provided in *Christensen II*. Despite this direction, Employee estimated a percentage of time spent on each issue within his second supplemental affidavit of attorney's fees and costs. Employee prevailed only on the specific issue regarding modification of the calculation of prior attorney's fees and costs, which Employee estimated at 10 percent of the total additional fees submitted.

Without further reductions, 19.4 hours of attorney time at the awarded rate of \$350 per hour equals \$6,790.00; 18.8 hours of paralegal costs at \$185 per hour equals \$3,478.00. Total additional asserted fees and costs relating to Employee's petition for reconsideration and modification are \$10,280.00. Employee is awarded 10% of this total, for an additional award of \$679.00 in reasonable and fully compensatory attorney's fees relating to the petition for modification and \$347.80 in additional costs. *Rusch; Childs*.

CONCLUSIONS OF LAW

- 1) Reconsideration should not be granted.
- 2) Modification should be granted only relating to the calculation of attorney's fees and costs awarded.

ORDER

- 1) Employee's request for reconsideration is denied.
- 2) Employee's request for modification is granted in part.
- 3) Employer shall pay modified attorney's fees of \$33,362.00 and costs totaling \$13,690.17.

Dated in Fairbanks, Alaska on October 7, 2021.

ALASKA WORKERS' COMPENSATION BOARD

\_\_\_\_\_/s/\_\_\_\_\_  
Cassandra Tilly, Designated Chair

\_\_\_\_\_/s/\_\_\_\_\_  
Sarah Lefebvre, Member

\_\_\_\_\_/s/\_\_\_\_\_  
Lake Williams, Member

APPEAL PROCEDURES

This compensation order is a final decision. It becomes effective when filed in the office of the board unless proceedings to appeal it are instituted. Effective November 7, 2005 proceedings to appeal must be instituted in the Alaska Workers' Compensation Appeals Commission within 30 days of the filing of this decision and be brought by a party in interest against the boards and all other parties to the proceedings before the board. If a request for reconsideration of this final decision is timely filed with the board, any proceedings to appeal must be instituted within 30 days after the reconsideration decision is mailed to the parties or within 30 days after the date the reconsideration request is considered denied due to the absence of any action on the reconsideration request, whichever is earlier. AS 23.30.127.

An appeal may be initiated by filing with the office of the Appeals Commission: 1) a signed notice of appeal specifying the board order appealed from and 2) a statement of the grounds upon

