

CHAPTER 65-10 APPEALS

65-10-01. Appeal from decision of organization.

If the final action of the organization denies the right of the claimant to participate at all in the fund on the ground that the injury was self-inflicted, or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the claim, or if the organization allows the claimant to participate in the fund to a lesser degree than that claimed by the claimant, if such allowance is less than the maximum allowance provided by this title, the claimant may appeal to the district court of the county wherein the injury was inflicted or of the county in which the claimant resides. An employer may also appeal a decision of the organization in any injury case or an organization decision issued under chapter 65-04, in the manner prescribed in this section. An appeal involving injuries allegedly covered by insurance provided under contracts with extraterritorial coverage shall be triable in the district court of Burleigh County. Any appeal under this section shall be taken in the manner provided in chapter 28-32. Any appeal to the district court shall be heard on the record, transmitted from the organization, and, in the discretion of the court, additional evidence may be presented pertaining to the questions of law involved in the appeal.

65-10-02. Determination by court - Judgment paid by organization.

On appeal, the court shall determine the right of the claimant. If it determines the right in the claimant's favor, it shall fix the claimant's compensation within the limits prescribed in this title, and any final judgment so obtained shall be paid by the organization out of the fund in the same manner as awards are paid.

65-10-03. Cost of appeal and attorney's fees fixed by the organization.

The organization shall pay the cost of the judicial appeal and the attorney's fees for an injured employee's attorney if the employee prevails as provided under section 65-02-08. The maximum fee set by the organization may be exceeded upon application of the injured employee to the organization, upon a finding the claim had clear and substantial merit, and the legal or factual issues involved in the appeal were unusually complex, but a court may not order that the maximum fee be exceeded.