

Welcome to the State of the Union



Presenters:

- **Deputy Secretary for Compensation and Insurance,
Jerry Mullery**
- **Director of the Office of Adjudication,
Joseph DeRita**
- **Chairman of the Workers' Compensation Appeal
Board, Alfonso Frioni**

Goals

- **Updates from each program area**
- **Understanding the Flow of a Claim**
 - a. **Accepted Claim - BWC**
 - b. **Litigated Claim - WCOA**
 - c. **Appeal of Decided Claim - WCAB**

Updates

- BWC – Jerry Mullery
- WC Office of Adjudication – Joe DeRita
- WC Appeal Board – Al Frioni

Flow of an Accepted Claim - BWC

- Injury reported to Employer
- Employer obligated to report injury to Bureau within seven (7) days. Typically completed by carrier by filing First Report of Injury (FROI)
- First Report of Injury – file with the Bureau electronically using EDI (electronic data interchange) (LIBC-90)

Flow of a Claim - BWC

Within 21 days of notice of injury, Employer/Carrier must file (via EDI) with the Bureau:

Notice of Compensation Denial – any further action goes through the Office of Adjudication upon the filing of a Claim petition.

Notice of Compensation Payable – acceptance of liability for the listed injury*
Medical only – Acceptance of an injury but not disability

Notice of Temporary Compensation Payable – 90 days to accept/deny the claim*

* Must file a **Statement of Wages** when issuing either the NCP/NTCP

Flow of a Claim - BWC

Forms Filed During the life of a Claim

Notification of Suspension/Modification

- Utilized to modify or suspend TTD benefits when claimant has returned to work at full pay or at reduced wages - requires an EDI transaction

Supplemental Agreement for Compensation

- by agreement of the parties, alters workers' compensation benefits - requires EDI transaction

Flow of a Claim - BWC

Utilization Review Request

- Utilized to request review of medical treatment for reasonableness and necessity

Impairment Rating Request for Designation

- Utilized to request the Bureau designate a certified IRE physician to perform an impairment rating evaluation.

Medical Fee Review

- Make determinations to resolve disputes between healthcare providers and carriers involving timeliness of payment and amount of payment due

Flow of a Claim - BWC

Forms Closing Out a Claim

Final Statement of the Account of Compensation Paid

- required to close out the claim when all compensation has ceased

Agreement to Stop Weekly WC Payments (Final Receipt)

- by agreement of the claimant, benefits are stopped

When Claim is Closed by WCJ Decision – no form required, EDI transaction must be filed to close claim

The Flow of a Litigated Workers' Compensation Claim

Workers' Compensation Office
of Adjudication
Director Joseph DeRita

I. Notice of Injury

“.... the time for giving notice shall not begin to run until the employee knows, or by the exercise of reasonable diligence should know, of the existence of the injury and its possible relationship to his employment.”

Section 311 of the Act.

II. Voluntary Payment

Within 21 days from the date the employee provides notification of an injury, the employer/carrier accepts liability for the injury and issues a Notice of Workers' Compensation Payable, a Notice of Temporary Compensation Payable or an Agreement for Compensation to the employee. These paper forms and EDI transactions must also be filed with the Bureau of Workers' Compensation.

III. Employer/ Carrier Options After Acceptance of Claim

A.) Notification of Suspension/modification

B.) Supplemental agreement

C.) Termination/Suspension/Modification
Petition

D.) Request IRE

- 104 of TTD;
- Less than 35% whole body impairment;
- Partial disability 500 week clock begins.

IV. Denial of Payment

Within 21 days from the date the employee provides notification of an injury, the employer/carrier denies liability and issues a Notice of Workers' Compensation Denial to the employee; the Denial and appropriate EDI transaction must also be filed with the bureau.

V. Employee Files Claim Petition

Generally, the employee has three years from the date of injury to file a Claim Petition (LIBC-362). The burden of proof remains on the Claimant to prove every element of the claim by substantial competent evidence.

VI. Case Assigned to Workers' Compensation Judge

Workers' Compensation petitions are normally assigned to a workers' compensation judge according to the county in which the employee lives. A Notice of Assignment is issued to the parties advising them as to which judge is assigned to the matter.

VII. Workers' Compensation Hearing Scheduled

Once assigned, all parties involved in the case are notified as to the date, time and place of hearing.

VIII. Workers' Compensation Hearing Held

A workers' compensation judge hears testimony and receives evidence presented by both the defendant (employer/insurer) and claimant at one or more hearings that may be needed to obtain and produce medical evidence and hear other witnesses.

IX. Mediation Scheduled

The workers' compensation judge will schedule the case for mandatory mediation, unless the judge concludes it would be futile. If this mediation does not take place or lead to settlement, the parties may request a voluntary mediation.

X. Decision

A written decision is circulated to involved parties after a case is closed (all evidence has been submitted and the judge has everything necessary to render a decision). Adjuster has submitted EDI to match the decision and no further action is taken.

WORKERS' COMPENATION

APPEAL BOARD

Chairman Al Frioni

The flow of a workers' compensation appeal...



Acknowledgment of Appeal



WCAIS Changes: Brief Schedule

Appeal Case Summary

Required fields are indicated by *:

WCAIS Claim #: 1224567 Claimant/Employee Name: LAST FIRST Defendant/E

[+Expand](#)

A **Brief Due Date** for the Petitioner will be set when the Appeal is acknowledged.

[Appeal Hearing](#)

Brief Schedule

[Briefs](#)

[Requests](#)

[Documents and Correspondences](#)

[Opinion Information](#)

Select One	Appeal Number	Submitting Party	Brief Due Date	Brief Type	Brief Status	Hearing Preference	Action
<input type="radio"/>	A22-0000-1	NAME (Claimant's Attorney) - Petitioner	04/20/2022	Brief	Pending	To Be Determined	
	A22-0000-1	NAME (Defendant's Attorney) - Respondent		Brief	Pending	To Be Determined	

Action:

[Continue](#)

WCAIS Changes: Brief Schedule Ready for Respondent

Appeal Case Summary

Required fields are indicated by *:

WCAIS Claim #: 1024507 Claimant/Employee Name: NAME

[+Expand](#)

Once the Petitioner's Brief is no longer Pending, WCAIS creates the Respondent's **Brief Due Date**.

Brief Schedule

Select One	Appeal Number	Submitting Party	Brief Due Date	Brief Type	Brief Status	Hearing Preference	Action
	A22-0000-1	NAME (Claimant's Attorney) - Petitioner	04/20/20	Brief	Brief Received 04/13/2022	Electronic/ Virtual	
<input type="radio"/>	A22-0000-1	NAME (Defendant's Attorney) - Respondent	05/13/2022	Brief	Pending	To Be Determined	

Action:

WCAIS Changes: Brief Schedule Notice

Brief Schedule Notice

**Briefs will not be accepted
after the Brief Due Date.
WCAIS will update the Status
to No Brief Received.**



Notice Date: **04/13/2022**
Appeal Case: **A22-0000**
Claim Number: **12345678**
Injury Date: **05/06/2021**
Dispute Number: **DSP-1234589-1**

RESPONDENT BRIEF DUE DATE NOTICE **NAME v. CORPORATION**

Briefs shall be filed in accordance with 34 Pa. Code § 111.16.

Appeal Number	Parties	Brief Due Date	Brief Status	Hearing Preference
A22-0000-1	Petitioner – Name (Claimant's Attorney)	04/20/2022	Brief Received 04/13/2022	In-Person
A22-0000-1	Respondent – Name (Defendant's Attorney)	05/13/2022	Pending	To Be Determined

BRIEF DUE DATES WILL BE ENFORCED BY THE BOARD.

NOTE: When you file your brief, you will be required to choose a hearing preference. You may select an in-person hearing, a virtual hearing, or you may waive your right to a hearing. Unless waived by all parties, a hearing in the case will be scheduled.

WCAIS Changes: Hearing Notice

Notice of Hearing – In-Person Hearing



Notice Date: **05/20/2022**
Appeal Case: **A18-00000**
Claim Number: **0000000**
Injury Date: **05/06/2021**
Dispute Number: **DSP-0000000-1**

Notice of Hearing – Electronic Hearing



Notice Date: **05/20/2022**
Appeal Case: **A18-00000**
Claim Number: **0000000**
Injury Date: **05/06/2021**
Dispute Number: **DSP-0000000-1**

NOTICE OF HEARING NAME v. CORPORATION

A hearing has been scheduled for the above captioned case by the Workers' Compensation Appeal Board.

Date: **07/14/2022**
Time: **2:00 PM**
Type: **Electronic**

(Electronic hearing link to be provided by email or mail invitation.)

NOTICE OF HEARING NAME v. CORPORATION

has been scheduled for the above captioned case by the Workers' Compensation Appeal Board.

Date: **07/14/2022**
Time: **9:00 AM**
Room: **B**
Type: **In-Person**
Location: **411 7th Ave, 3rd Floor,
Pittsburgh, PA 15219-1029**



William I. Gabig
COMMISSIONER

ROBERT A. KREBS
COMMISSIONER

Alfonso Frioni, Jr.
CHAIRMAN

Sandra D. Crawford
COMMISSIONER

En banc panel of the WCAB...

Standard of Review same as
Commonwealth Court:
*“Substantial, competent
evidence and errors of law...”*



Oral Argument- a missed
opportunity!

Injury Date: 10/15/2020

WC Judge: F. Charles Lindome

Filed On Behalf Of: Plaintiff/Employee

Petition Type: Civil Petition (LRC-302)

Appellant's Argument

1) Award of TTD
ER appeal on 10/19/20
Award of TTD 10/19/20 = 5/26/21

The D alleges that Dr. Sattler's testimony is devoid of any opinion regarding the disability nature of the 10/19/20 injury. Civil Justice House as CC burden.

Appellee's Argument

- 1) Dr. Sattler's - No real evidence
- 2) No where does Dr. Sattler attest to disability
- 3) U/C Comp credit
- 4) Imperfectly -

Any opinion of TTD was that of Dr. Bontempo which was found not credible - WC substituted her opinion for that of Dr. Sattler and awarded TTD 10/19/20 to 5/26/21.

IT = WC looked at Dr. Sattler to see ready to return to work. Impe his disability in the TTD.

- 1) Challenge to award of U/C and litigation costs as no disability was established
- 2) Wants Unemployment credit
- 3) Imperfectly - due to nature of work March 2021



Dr. Sattler's testimony is inadmissible
Prints off 12

WCAB Voting



Circulation of
Opinions:
A Majority of
the Board (4)
must
Approve

Order	Reviewer	Name	Date Received	Date Due	Vote	Comment	Flag	Date/Time of Vote
1	Active	McDermott, Susan	08/10/2015	08/31/2015	Approve	2015-08-11: Tom, On p. 5, line 9, "any".		8/11/2015 8:42:46 AM
2	Active	Froni Jr., Alfonso	08/11/2015	09/01/2015				
3	Active	Krebs, Robert A.	08/11/2015	09/01/2015				
4	Active	Gabig, William I.	08/11/2015	09/01/2015	Approve			8/11/2015 1:41:08 PM
5	Alternate	Crawford, Sandra D.						
6	Alternate	Zurick, James						
7	Alternate	Wilderman, David						

Vote

- Select Vote*:
- Approve
 - Concur in Result Only
 - Dissent Only
 - Enter Concurring Opinion
 - Enter Dissenting Opinion
 - Pass

Comments:

- Flag:
- Conference
 - Red Flag
 - Suggest to Resubmit

Cancel

Vote



Appeal Case: A21-0409
Opinion Mailing Date: 12/3/2021
Determination: Affirmed

Opinion
DAVID STEIN v. MUSSER SUPPLY INC

Attached is a copy of an Opinion from the Workers' Compensation Appeal Board filed this date in the above-captioned case. An appeal to the Commonwealth Court of Pennsylvania may be taken by any party aggrieved by the Board's decision, provided such appeal is taken within (30) days after the mailing date of the Board's decision. The Board is not responsible for the filing or processing of further appeals to the Court. Further appeals may be filed in person or by mail (accompanied by U.S. Postal Services Form 3817) with the Prothonotary of the Commonwealth Court of Pennsylvania, 601 Commonwealth Avenue, Suite 2100, PO Box 59185, Harrisburg, PA 17106-9185. The Commonwealth Court may also be contacted at 717-255-1650 with questions related to a further appeal.

Interested Parties:

Claimant/Employee
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Defendant/Employer
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Defendant's Attorney
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Insurer
FEDERATED MUTUAL INSURANCE COMPANY
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OWATONNA, MN 55060-0486

Department of Labor and Industry | Workers' Compensation Appeal Board
1171 S Cameron Street Rm 1700 | Harrisburg, PA 17104
Phone: 717-783-7838 | Fax: 717-772-0313 | Email: ra-ll-wca@pa.gov | www.dli.pa.gov

Assistive aids and services are available upon request to individuals with disabilities.
Equal Opportunity Employer/Program

David Stein v. Musser Supply Inc.
A21-0409

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OPINION

CRAWFORD, COMMISSIONER:

Before the Workers' Compensation Appeal Board (Board) is the appeal of Musser Supply Inc. (Defendant) from the Decision and Order of Workers' Compensation Judge (WCJ) Leah Lewis granting a Claim Petition for Workers' Compensation (Claim Petition) filed by David Stein (Claimant) and denying, in part, a Petition to Terminate Compensation Benefits (Termination Petition). We affirm.

On January 8, 2020, Defendant issued a Notice of Workers' Compensation Denial (NCD) for a date of injury of December 19, 2019. The NCD indicated the claim was denied because Claimant did not suffer a work-related injury. (Exh. J-1).

On February 27, 2020, Claimant filed a Claim Petition alleging a head injury, intracranial hemorrhage, right hip injury, left rib fracture, and concussion resulting from a fall off the back of a truck. Claimant alleged total disability from December 19, 2019 ongoing.

On July 28, 2020, Defendant filed a Termination Petition alleging full recovery from orthopedic injuries as of May 15, 2020, and a Termination Petition alleging full recovery from neurological injuries as of May 20, 2020. Defendant subsequently stipulated to rib fractures and an intracranial hemorrhage. (N.T. 7/30/20 at 6). Claimant stipulated to full recovery from the intracranial hemorrhage. (Id. at 8).

By a Decision and Order circulated on May 13, 2021, the WCJ accepted Claimant's testimony and the testimony of his medical expert witness. She found Claimant sustained left rib fractures, head injury/intracranial bleeds, and exacerbation of lumbar radiculopathy with referred pain into the right hip, and had fully recovered from the rib and head injuries.



Commonwealth Court of Pennsylvania

Thank you!