

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. <u>Litigated Claim WCOA</u>
 - 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 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

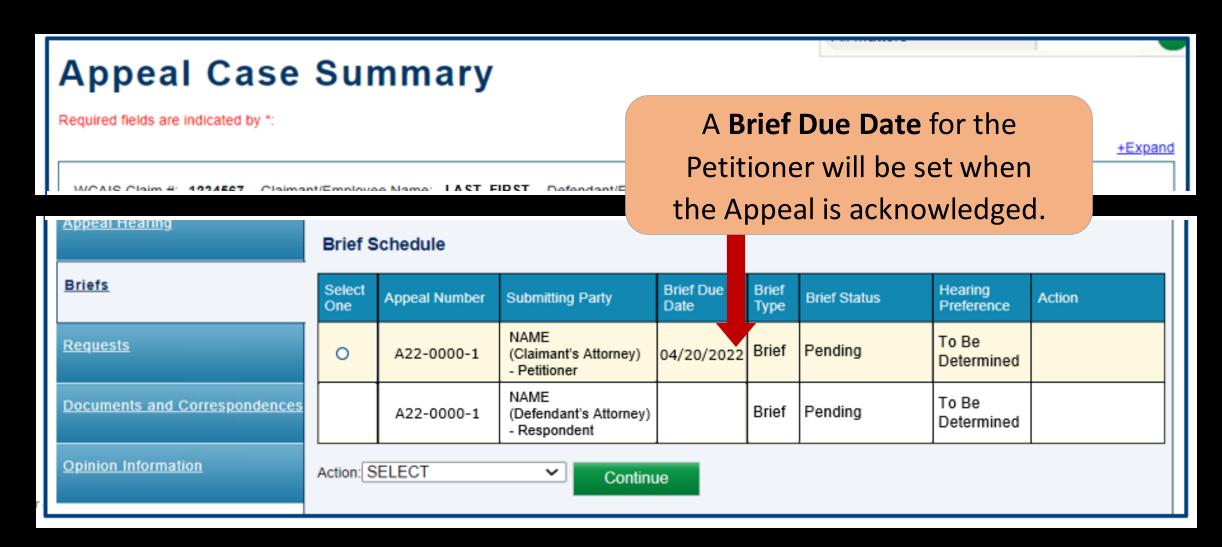
The flow of a workers' compensation appeal...



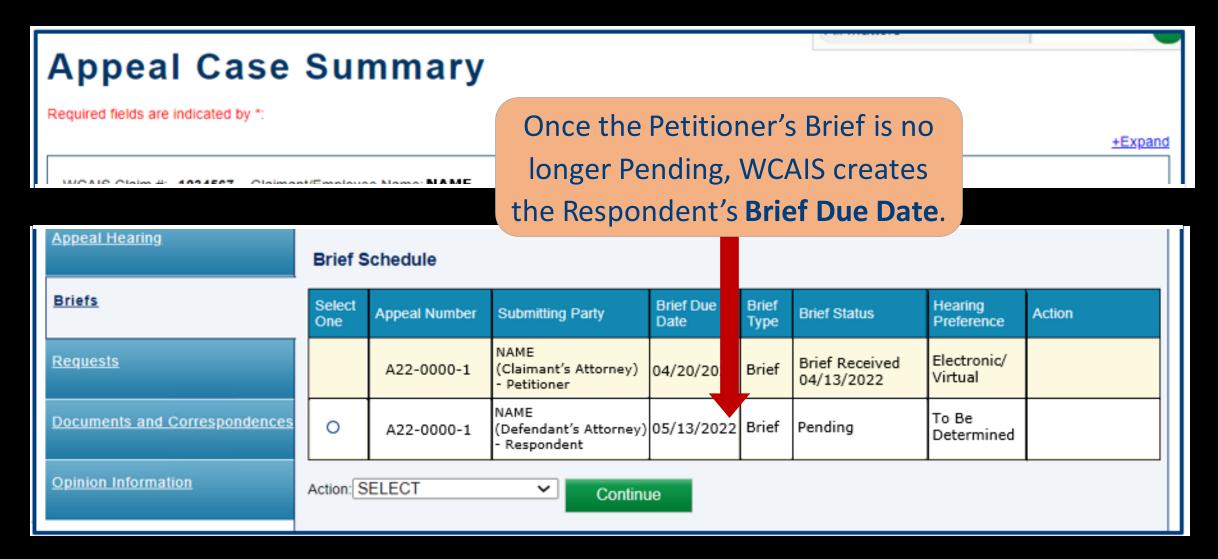
Acknowledgment of Appeal



WCAIS Changes: Brief Schedule



WCAIS Changes: Brief Schedule Ready for Respondent



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 mail invitation.)

NOTICE OF HEARING NAME v. CORPORATION

s been scheduled for the above captioned case by the Workers' on Appeal Board.

Date: **07/14/2022**

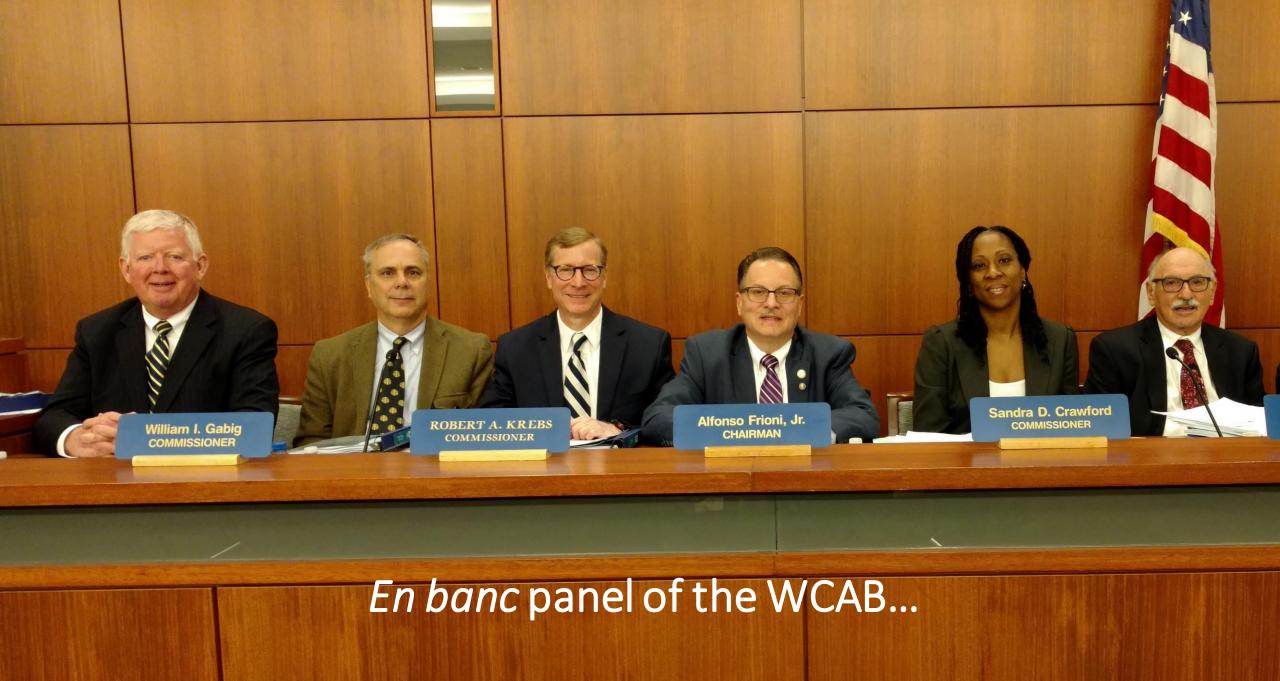
Time: 9:00 AM

Room: **B**

Type: In-Person

ocation: 411 7th Ave, 3rd Floor,

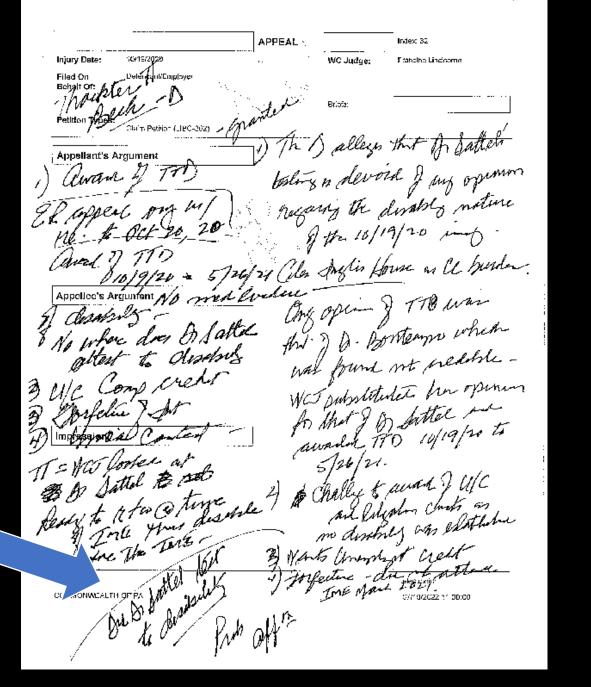
Pittsburgh, PA 15219-19-1



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



Oral Argument- a missed opportunity!



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	Frioni 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.						The state of the s
6	Alternate	Zurick, James			1 1			
7	Alternate	Wilderman, David						

Vete		Comments	
Vote		Comments:	^
Select Vote*	O Approve		
	Concur in Result Only		
	O Dissent Only		
	 Enter Concurring Opinion 		
	 Enter Dissenting Opinion 	Flag: Conference	
	O Pass	Red Flag	
		Suggest to Resubmit	



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 Opinton 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 oecision, 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 tiled 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 1/106 9185. The Commonwealth Court may also be contacted at 717 255 1650 with questions related to a further appeal.

Interested Parties:

Claimant/Employee DAVID STEIN 1299 NURSERY RD WRIGHTSVILLE, PA 17368

Claimant's Attorney Drew P Gannon, ESQ 110 N George St York, PA 17401~1162

Defendant/Employer MUSSER SUPPLY INC PO Box 390 Columbia, PA 17512-0390

Defendant's Attorney Robert J Baker, ESQ 150 Corporate Center Drive Suite 103 Camp HIII, PA 17011

Insure: FEDERATED MUTUAL INSURANCE COMPANY PO BOX 486 OWATONNA, MN 55060-0486

Department of Lebor and Industry | Workers' Compression Appeal Board | 17.15 Carrieron Street For 12/04 | Hardshirg, PA 17/04 | Phane: 717-783-7835 | 783: 717-772-733 | Email: Tell-wock@pape.v | www.dll.pa.g.ov

Auxiliary aids and sarvices are available upon arquist to indiviouals with disabilities. Equal Opportunity Employee/Program

David Stein v. Musser Supply Inc. A21-0409 Page 1 of 9

OPINION

CRAWFORD, COMMISSIONER:

Before the Workers' Compensation Appeal Board (Soard) is the appeal of Mussar 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. (Exb. J-1).

On February 27, 2020, Claimant filed a Claim Petition alleging a head injury, intracranial homorrhage, 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 infracrantal hemorrhage. (N.T. 7/80/20 at 6). Claimant scipulated to full recovery from the intracrantal 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 radiculopethy with referred pain into the right hip, and find fully recovered from the rib and head infuries.



Commonwealth Court of Pennsylvania

Thank you!