

WORKERS' COMPENSATION JUDGES' MEDIATION PROCEDURES

NAME: Anne Coholan

OFFICE: Uniontown

DISTRICT: Western

1. Please list the offices at which you will mediate a claim.

I mainly hold settlement conferences in Uniontown, but I am also willing to go to the Pittsburgh, Greensburg, and Washington offices to conduct mediations.

2. Are you willing to mediate claims that are assigned to you for hearing and decision?

Yes.

3. Are you willing to mediate claims in which one or both parties are not represented by counsel?

Yes.

4. Do you require the parties to execute an agreement to mediate? If so, please describe briefly the matters addressed by the agreement.

I do not require an agreement.

5. How much time do you typically allow for a mediation session?

I allow at least two (2) hours.

6. Do you require the parties to submit a pre-mediation memorandum? If so:

I do not require a pre-mediation memorandum.

7. Do you conduct a pre-mediation conference? If so, please describe what takes place at that conference.

I do not conduct a pre-mediation conference..

8. Do you require all participants (claimant, adjustor/employer representative, counsel) to attend the mediation personally? Under what circumstances do you permit a participant to attend by telephone?

I want the claimant and the attorneys to personally attend the settlement conference. A person with authority on behalf of the employer and/or insurance carrier should be available by telephone.

9. Once you receive a mediation request, what is the usual amount of time elapsed until the mediation takes place?

Most settlement conferences are scheduled to take place within three weeks of the date on which we receive the request.

10. Describe generally how you conduct a mediation session.

- **Describe each step of the process.**

Before I talk to the parties separately, I meet with all sides to make sure I have correct basic information about the case, such as the claimant's age, the claimant's pre-injury average weekly wage, the claimant's compensation rate, whether the claimant is Medicare-eligible for any reason, and whether the claimant is the subject of any child support or domestic relations order. Also, I try to find out what demands and offers have been made in the case so far.

I then talk to each side separately to try to find out what factors/goals are the most important to them, and if there are any matters that they will absolutely not concede. (Examples: the claimant may not want to give up medical benefits under any circumstance, or the employer may not want to acknowledge any responsibility with respect to any neck problems the claimant has.) I also try to get an idea as to what settlement range each party is actually willing to contemplate. I then try to get at least some initial movement from both sides.

If some progress is being made, I will continue to meet with each side separately and “share thoughts” with each side about factors I think they should be taking into consideration. These thoughts cover a wide spectrum. Sometimes I will focus on pointing out the weaknesses of that side’s medical evidence. On other occasions, I will spend more time on talking to each party about the ways they will benefit from resolving the case and moving on with life.

About one-third of the cases on which I conduct settlement conferences will settle on the date of the conference. Most of the remaining cases settle within the next month or two, after the parties have had a little more time to think about it.

- **Indicate whether you use a facilitative (i.e., helping the parties to communicate and generate their own solutions), evaluative (i.e., discussing the strengths and weaknesses of each party’s case and/or offering an opinion as to the settlement value), or mixed approach.**

I use a mixed approach.

11. Are you willing to conduct more than one session per claim?

Yes.

12. Is there anything else the parties should know or do in advance of the mediation?

I think the parties should only request a settlement conference if they are serious about settling and if they are willing to negotiate.