

WORKERS' COMPENSATION JUDGES' MEDIATION PROCEDURES

NAME: James A. Stapleton

OFFICE: Pottsville

DISTRICT: Eastern

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

Pottsville.

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, although it is certainly preferred that all parties be represented by counsel.

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

No, but it is expected that the parties will agree to and comply with a set of Basic Rules for Mediation Conferences, which are provided to them at the time of the scheduling of the mediation session.

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

Two (2) hours.

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

Yes.

- What information must be contained in the memorandum?

See attached [form](#).

- What documents, if any, must accompany the memorandum?

All persons participating in the mediation must sign an Acknowledgement form, by which they agree to comply with the Basic Rules for Mediation Conferences.

- How far in advance of the mediation must the parties submit the memorandum and accompanying documents?

At least seven (7) days prior to the mediation session.

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

No.

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?

No. Counsel for the parties and the claimant must be personally present for the mediation session. The representative of the employer or insurance carrier must be personally present or must be available by telephone for the duration of the mediation session.

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

Varies with the volume of requests for mediation conferences. Usually about two months.

10. Describe generally how you conduct a mediation session.

- Describe each step of the process.

After some introductory comments, the judge conducts the first part of the mediation with all parties and their counsel present in the room. During this session, each party is given the opportunity to make an opening statement, and the judge will typically ask each party some questions to gather specific information.

Thereafter, the judge will typically conduct individual conferences first with claimant's counsel, then with the claimant, then with employer's counsel, and then with the representative of the employer or insurance carrier, as necessary, in order to explore options for the resolution of the matter.

- 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?

It is very important that the employer or insurance carrier have an individual with unlimited authority to resolve the matter personally present or available by telephone for the duration of the mediation session.