

WORKERS' COMPENSATION JUDGES' MEDIATION PROCEDURES

NAME: Kenneth P. Walsh

OFFICE: Williamsport

DISTRICT: Central

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

Williamsport.

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, but with a degree of trepidation.

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

In any case that is or may be assigned to me at some point in the future, yes. The [agreement](#) is the form developed by the Bureau some time ago and is available from my office.

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

About an hour and a half to two hours.

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

No. But I do ask for the file to be sent to me for my personal review. Then I conduct what would be opening statements in my pre-trial hearings to advise me of the legal, factual, procedural, and medical issues involved in the matter.

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?

I generally have the adjuster available by phone, with both counsel and the claimant physically present.

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

It really depends on the parties. Three to five weeks.

10. Describe generally how you conduct a mediation session.

- Describe each step of the process.

Personal file review; opening statements; description of process and my role and non-recusal and settlement agreement; individual discussions with counsel and parties; joint discussions; final joint discussion to summarize and confirm understanding of the parties.

- 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 combination of approaches, with a discussion with parties of what role they want me to play to facilitate the process.

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

Yes, if truly necessary, but I do not favor more than one session. I hope that the parties have moved forward with discussions prior to requesting mediation so that my involvement comes at the end of discussions to bring the matter to a close.

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

In addition to the response to number 11, I really expect the parties to know what the issues are regarding: Social Security Disability and Medicare issues; past and future needs and desires regarding medical treatment, surgery, medicines, etc.; basis for determining the negotiation positions, anticipated outcome. I don't want to have the mediation be the first time the parties have thought about what they are doing.