

## **Workers' Compensation Judges' Procedural Questionnaire**

Workers' Compensation Automation and Integration System (WCAIS) is the official repository for all documents related to a Dispute (matter pending) before a Workers' Compensation Judge. All documents, including evidence and briefs, that would have been submitted to a Workers' Compensation Judge by mail or in person prior to WCAIS should now be uploaded into WCAIS. If Social Security numbers appear on any such document, the first five numbers should be redacted before the document is uploaded, unless otherwise specified below. Requests, such as Requests for Continuance and Subpoenas, should also be made through WCAIS.

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### **First Event/Hearings:**

1. What is the first Event (i.e., pretrial, hearing, conference call) and what will occur at the first Event with the judge? The hearing is the first event. The injured workers' testimony will be taken at this hearing. The hearing will be scheduled for 30 minutes unless a request for additional time is received within 7 days of the assignment of the dispute.
  
2. Are any first hearing filings or documents required at the first Event with the judge? If so, what are they? **Yes**  **No**

#### **Further explanation:**

Click here to enter text.

- a. Should first hearing filings or documents be uploaded as Exhibits or as Documents?

**Exhibits**  **Documents**

#### **Further explanation:**

Click here to enter text.

- b. Should first hearing filings be uploaded before or after the first hearing?

**Before**  **After**

**Further explanation:**

[Click here to enter text.](#)

3. What are your procedures for supersedeas hearings?

a. Will testimony be heard? **Yes**  **No**

**Further explanation:**

The injured worker's testimony will be taken at the first hearing.

b. Is additional time generally granted to obtain medical evidence? **Yes**  **No**

**Further explanation:**

Additional time is provided to the injured worker or the defendants to submit medical reports or additional information. Seven days is given for the Termination Petitions that are filed within 21 days of the examination and have a copy of the Physician's Affidavit of Recovery attached to the petition; 14 days is given for the Termination Petitions that are not filed within 21 days of the date of the examination.

c. Under what circumstances will you reconsider a supersedeas order?

At the request of any party with the submission of new evidence.

d. Do you generally use written orders for denials? **Yes**  **No**

**Further explanation:**

It is issued to document the determination and to approve attorney's fees.

e. What is required for employee's counsel to obtain interim fee approval?

A letter uploaded on WCAIS along with the compensation documents showing that benefits are being paid or a letter from counsel that counsel has confirmed that payments are being made.

f. Do you have any other procedures for supersedeas hearings not described above? If so, what are they? **Yes**  **No**

**Further explanation:**

When a request for reconsideration for supersedeas is requested, the other party is notified by letter and given 10 days to respond to the request. The dispute is not

rescheduled for hearing unless requested by the party since the party has been given an opportunity to respond to the request.

- g. Do you have different procedures for special supersedeas hearings? If so, please describe them? **Yes**  **No**

**Further explanation:**

Other than the amount of time allocated for submission of evidence on the supersedeas request after the hearing.

4. Do you use a one-day/one-hearing format or serial hearings? Please describe the structure of your hearings. Please indicate if you are willing to change your hearing format upon request of all parties.

Serial hearings are held. Testimony of the injured worker is taken at the first hearing. Additional hearing are scheduled to complete the injured worker's testimony or to take the testimony of other witnesses. The amount of time allocated for the hearings or the number of hearings will vary according to the nature of the testimony to be presented. The record can be closed by a final hearing or by submission of exhibits by mail upon agreement of the parties.

5. Are you willing to allow counsel to participate in hearings by telephone? **Yes**  **No**

**Further explanation:**

Counsel can participate by phone for status hearing. Special circumstances are required for counsel to participate by phone if testimony is to be taken at the hearing.

6. What procedure do you follow if a party fails to appear at an Event?

Efforts are made to contact the adjuster to advise the adjuster of the hearing if no entry of appearance has been made when I review the dispute for the scheduled hearing. If entry of appearance for counsel has been made, then I contact counsel at the time of hearing to determine why no one has appeared and to determine if anyone is present at counsel's office who could handle the hearing by phone. The disputes are normally rescheduled for hearing unless an unrepresented injured worker fails to appear in a petition seeking suspension or modification based on the injured worker's return to work.

7. Do you have any special procedures for psychological injury cases? **Yes**  **No**

**Further explanation:**

The testimony of the witnesses regarding the issue of abnormal working conditions is completed before medical depositions are taken. However the injured worker should have his medical report when the petition is filed.

**Witnesses/Exhibits:**

8. What are your rules regarding the taking of testimony?

a. Do you prefer the testimony be taken at a hearing or by deposition?

**Hearing**  **Deposition**

b. If counsel wishes to bring a witness to a hearing, do you require prior notice? If so, how much notice do you require? **Yes**  **No**

**Further explanation:**

The injured worker's testimony should be taken live unless circumstances prevent that from being accomplished. If the testimony of the other lay witnesses is contradicting the injured worker's testimony, then that witness should appear live. If witness is to appear at the first hearing, then the request for additional time should be submitted within 7 days of the date of the assignment. If the witness is to testify at a later hearing, then the request should be submitted no later than the first business day of the month before the disputes are to be scheduled for hearing. For instance if the case is to be scheduled in the month of April, the request for additional time should be submitted by the first business day of March. Request for additional time after scheduling the hearing will be dependent on what my schedule for that day permits or what other modification can be made to my schedule.

9. Under what circumstances will you permit a party or witness (including an expert witness) to testify by deposition or by phone, rather than appear at the hearing?

The testimony of the vocational witness can be taken by deposition unless the vocational witness observed the injured worker at a prospective employer and is countradicting the injured worker's testimony. The testimony of medical experts can be taken by deposition. Testimony of witnesses listed in 8 b can be taken by phone if the witness is out of state.

10. What is your procedure regarding the order of testimony with respect to submission of medical evidence, particularly when cross petitions are filed?

It depends on which petitions are filed and when the petitions are filed.

11. Do the parties need to upload the Bureau documents as exhibits or will they automatically be made Judge Exhibits? **Parties Upload**  **Judge**

12. Do you require that counsel upload exhibits to WCAIS before or after the hearing? If before, what is the latest day before the hearing that they may be uploaded? **Before**  **After**

**Further explanation:**

48 hours before the scheduled hearing

13. Do you require counsel to bring hard copies of the exhibits to the hearing? **Yes**  **No**

**Further explanation:**

n/a

14. When will you rule on objections to exhibits?

At the next hearing unless circumstances require a ruling before the next hearing. If an objection is raised to an exhibit submitted by mail after the record is closed, it will be handled by a conference call with documentation to follow or by the scheduling of a hearing.

15. What is your procedure for handling discovery disputes, e.g., do you employ telephone conferences, do you prefer to attend certain depositions, etc.?

Normally discovery disputes are handled by telephone conferences. I will attend a deposition IF the parties can justify why I need to attend the deposition.

16. What is the last day the parties may file written preservations of deposition objections?

With their position statements

**C&Rs/Stipulations:**

17. Please describe your procedures regarding the review of Compromise and Release Agreements.

a. Are you willing to allow amendments of existing petitions or do you require the filing of a separate Petition Seeking Approval of a Compromise and Release Agreement?

**Amendments**  **New Petition**

**Further explanation:**

But, if the parties want a separate Decision to be issued on the only petition that has been filed, a Petition Seeking Approval of the Compromise and Release Agreement must be filed. If the parties want to have a Compromise and Release Agreement approved for different injury date(s) than the pending dispute, then Petition(s) Seeking Approval of the Compromise and Release Agreement needs to be filed for the different injury date(s).

b. Do you require the parties to provide you with a draft of the Compromise and Release Agreement to review before the hearing? If so, how far in advance of the hearing do you need to receive it? **Yes**  **No**

**Further explanation:**

48 hours before the scheduled hearing

c. Should the parties upload the Compromise and Release Agreement, including the fee agreement and any other attachments, before or after the hearing?

Before  After

**Further explanation:**

The parties may upload a draft of the Compromise and Release Agreement to correspondence as long as the first 5 numbers of the SSN and the DOB have been redacted. If the parties have a NOTARIZED AND COMPLETED Compromise and Released Agreement or a SIGNED AND COMPLETED Compromise and Release Agreement with the SIGNATURE OF WITNESSES, it may be uploaded as a joint exhibit as long as the SSN and DOB have been redacted. The child support information should be ALWAYS be uploaded as a SEPARATE joint exhibit with the SSN and DOB redacted

- d. Should the child support documents be uploaded as a separate exhibit? Yes  No

**Further explanation:**

The Compromise and Release Agreement is circulated with the Decision. The child support information is not. If it is scanned with the Compromise and Release Agreement, then the Compromise and Release Agreement can not be attached by means of WCAIS as WCAIS does not allow the attachment of only part of an exhibit.

- e. What other exhibits should be uploaded as part of the Compromise and Release Agreement or as separate exhibits (i.e., waiver of appeal, medical bills, etc.). Please indicate whether they should be uploaded as part of the Compromise and Release Agreement or as separate exhibits.

Waiver of appeals and medical bills can be attached to the Compromise and Release Agreement. The Medicare Set Aside Agreements or Proposals should only be attached to the Compromise and Release Agreement if the parties want a copy of it to be circulated with the Decision. Otherwise submit the Medicare Set Aside Agreement should be marked as a separate exhibit. Other documents which the parties want to be circulated with the Decision can be attached to the Compromise and Release Agreement. If the document does not need to be circulated with the Decision, submit it as a separate exhibit.

- f. When should the social security number and other confidential information be redacted from the C&R agreement and Act 109 documents?

Whenever it is uploaded to WCAIS

- g. Will you sign bench orders? Yes  No

**Further explanation:**

WCAIS now allows circulation of the Decision of the Compromise and Release Agreement on the same day as the hearing when circumstances warranted it and if approved by a Judge Manager. Contact the office with the reasons why the Decision needs to be

circulated on the same day of the hearing AS SOON AS YOU KNOW THAT THE DECISION NEEDS TO BE CIRCULATED BY A CERTAIN DATE. This needs to be done to ensure that the hearing is scheduled early enough in the day so that staff are able to transcribe and upload the Decision to WCAIS for circulation that day and that approval from the judge manager for same day circulation can be obtained.

- h. Do you have any other procedures for Compromise and Release Agreements not described above? If so, what are they? **Yes**  **No**

**Further explanation:**

If the injured worker is testifying by phone, the injured worker's signature has to be notarized.

18. Please provide the following information regarding Stipulations resolving Disputes:

- a. What are your usual procedures regarding the submission, review, and adoption of such Stipulations?

The Stipulations signed by all parties should be uploaded as an exhibit in WCAIS. The stipulation should include the following two statements: The stipulations of fact are fair and equitable to the parties involved. The claimant understands the stipulations of fact and the effect of the stipulations of fact on future payments of compensation and medical expenses.

- b. Should the fee agreement be uploaded as part of the Stipulation or as a separate exhibit? **Part of Stipulation**  **Separate Exhibit**

**Further explanation:**

The stipulation will be attached as an exhibit to the Decision. The fee agreement will not.

- c. Should the child support documents be uploaded as a separate exhibit? **Yes**  **No**

**Further explanation:**

The stipulation will be attached as an exhibit to the Decision. The child support documents will not.

- d. What other exhibits should be uploaded as part of the Stipulation or as separate exhibits (i.e., medical bills, etc.)? Please indicate whether they should be uploaded as part of the Stipulation or as separate exhibits.

Part of the Stipulation—Medical Bills, Compensation Documents completed as part of the Stipulations. Separate documents—bill of costs, short or long term disability records, unemployment compensation records, other documentation supporting any offsets, etc.

- e. When should the social security number and other confidential information be redacted from the Stipulation and Act 109 documents?

Whenever it is uploaded to WCAIS

- f. Do you have any other procedures for Stipulations not described above? If so, what are they? **Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

**Close of Record/Briefs:**

19. Are you willing to close a case by electronic submission via WCAIS or is a final hearing required? **Electronic Submission**  **Final Hearing**

**Further explanation:**

The case is usually scheduled for a final hearing. But, the record can be close by electronic submission as long as the parties agreed to the closing of the record by electronic submission and the admissibility of the documents.

20. What are the time requirements for the submission of briefs and other post-hearing submissions? Do you have any procedure if the briefs or post-hearing submissions are not received in a timely manner?

Position statements or findings are due from both sides within 30 days of the date that the record is closed. If testimony was taken at the last hearing and the parties want to obtain that transcript, the parties will be given 45 days from the hearing date. Preservation of objections, bill of costs, child support information, if needed, and the fee agreement (if it has not already been submitted) can be submitted with the position statement or findings of fact. The medical bills and request for attorney's fees based on a quantum meruit basis should be submitted before the submission of the findings so that the defendants can address these in their position statements or findings of fact. If the case is to be closed by the submission of a deposition that has been scheduled, but not taken, the deposition transcript will be due 45 days after the date of the deposition. If the depositions has been taken and not received, the amount of time will depend on when the deposition was taken. Additional medical reports records are usually due in 30 days from the hearing date. The time for submission of statement of wages is 15 days. Parties are contacted whenever evidence is not submitted as scheduled. If position statements are not submitted by the schedule date without an extension being requested, the judges' communication will be sent to counsel to submit the position within 20 days of the date of the judges' communication. The disputes will be placed in line for decision even if position statements are not received by that date.

21. Please describe your preferences for the format and content of briefs and post-hearing submissions.

I prefer a position statement that addresses the issues raised during litigation of the dispute.

## **Mandatory Mediations**

22. Please list the offices at which you conduct mandatory mediations.

Greensburg

23. Do you require the parties to execute an agreement to mediate? If so, please describe the matters to be addressed by the agreement. **Yes**  **No**

### **Further explanation:**

[Click here to enter text.](#)

24. Do you require all participants (claimant, adjuster/employer representative, counsel) to attend the mediation personally? Under what circumstances do you permit a participant to attend by telephone, if any? **Yes**  **No**

### **Further explanation:**

All counsel should be present. The injured worker should be present at the mediation unless the injured worker is working, living out of state, or ill. But, the injured worker must be available by phone and email (if the worker has access to email). Whenever possible, the adjuster/employer representative should also be present. If the adjuster/employer representative is not in the local area, then the adjuster will be permitted to participate by phone. Counsel should have the adjuster's phone number and email address so that counsel can reach the adjuster.

25. Do you require a Mediation Statement? **Yes**  **No**

If so:

a. What information do you require in that Statement?

See attached Mediation Statement. If you upload it on WCAIS, the Mediation Statement must be upload as a Mediation Statement, not as correspondence. If it is uploaded as correspondence, then all parties (the assigned judge and the other side) can read it.

b. What documents, if any, must accompany the Statement?

Injured worker should attached a list of all medical expenses paid on behalf of the injured worker or of the unpaid medical bills incurred by the claimant to this statement. The statement should include the names of the health care provider(s), the nature of the services rendered and the amount of the charges before repricing. Please include prescriptions names and amount. Defendants should include a listing of the medical bills paid by the carrier within the last 12 months as well as a break down of any credits sought by the defendants.

- c. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

48 hours

26. Once you receive a mediation request, what is the usual amount of time that elapses until the mediation takes place?

6 weeks

27. Are you willing to conduct more than one session per Dispute? **Yes**  **No**

**Further explanation:**

Additional mediations will be scheduled if the parties need additional information to resolve the dispute. It can also be scheduled for another mediation if subsequent testimony or evidence submission or change in circumstances of the parties makes a resolution of the dispute(s) possible.

28. If a party wants to request cancellation or postponement of a mediation on a Dispute assigned to you:

- a. Should the party contact you or the mediating judge?

If the party is seeking a postponement of the mediation for reasons other than futility or lack of authority, the party should contact the mediating judge. Requests on the basis of futility and the lack of authority must be submitted to me.

- b. If you are to be contacted, what is the latest day before the mediation that cancellation or postponement, absent an emergency situation, can be requested?

10 days

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

**Yes**  **No**

**Further explanation:**

An estimate of future medical costs should be made whenever the parties are aware that the injured worker has and will continue to treat regularly for the injury. A MSA estimate should be obtained whenever the injured worker is on SSD and will be eligible for Medicare in near future.

**Voluntary Mediations:**

30. Do you conduct Voluntary Mediations? **Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

31. Please list the offices at which you will mediate a Dispute.

Greensburg

32. Are you willing to mediate Disputes that are assigned to you for hearing and decision?

Yes  No

**Further explanation:**

All parties must agree that they want me to mediate the pending dispute(s). A mediation agreement must be signed by all parties. See attachment for mediation agreement.

33. Are you willing to mediate Disputes in which one or both parties are not represented by counsel? If so, do you have any special procedures? Yes  No

**Further explanation:**

I do not have any special procedures.

34. Do you require the parties to execute an agreement to mediate? If so, please describe the matters addressed by the agreement. Yes  No

**Further explanation:**

See attached mediation agreement.

35. 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, if any? Yes  No

**Further explanation:**

The unrepresented party should be present at the mediation. The attorney for the represented party should also be present. The party represented by counsel should also be present unless the party is not in the local area. Then counsel should have the party's phone number and email address. Whenever possible, the adjuster/employer representative should also be present. If the adjuster/employer representative is not in the local area, then the adjuster will be permitted to participate by phone.

36. Do you require a Mediation Statement? Yes  No

**Further explanation:**

See attached Mediation Statement. If you upload it on WCAIS, the Mediation Statement must be upload as a Mediation Statement, not as correspondence. If it is uploaded as correspondence, then all parties (the assigned judge and the other side) can read it.

If so:

- a. What information do you require in that Statement?

See attached Mediation Disclosure Statement.

- b. What documents, if any, must accompany the Statement?

Injured worker should attached a list of all medical expenses paid on behalf of the injured worker or of the unpaid medical bills incurred by the claimant to this statement. The statement should include the names of the health care provider(s), the nature of the services rendered and the amount of the charges before repricing. Please include prescriptions names and amount. Defendants should include a listing of the medical bills paid by the carrier within the last 12 months as well as a break down of any credits sought by the defendants.

- c. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

48 hours

37. Once you receive a mediation request, what is the usual amount of time that elapses until the mediation takes place?

6 weeks

38. Are you willing to conduct more than one session per Dispute? **Yes**  **No**

**Further explanation:**

Additional mediations will be scheduled if the parties need additional information to resolve the dispute. It can also be scheduled for another mediation if subsequent testimony or evidence submission or change in circumstances of the parties makes a resolution of the dispute(s) possible.

39. If a party wants to request cancellation or postponement of a mediation on a Dispute assigned to you:

- a. Should the party contact you or the mediating judge?

If the party is seeking a postponement of the mediation for reasons other than futility or lack of authority, the party should contact the mediating judge. Requests on the basis of futility and the lack of authority must be submitted to me.

- b. If you are to be contacted, what is the latest day before the mediation that cancellation or postponement, absent an emergency situation, can be requested?

10 days

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

Yes  No

**Further explanation:**

An estimate of future medical costs should be made whenever the parties are aware that the injured worker has and will continue to treat regularly for the injury. A MSA estimate should be obtained whenever the injured worker is on SSD and will be eligible for Medicare in near future.

**Requests/Miscellaneous:**

41. What is your procedure regarding continuances, changes in hearing times and extensions, i.e., how far in advance do you require the Request be uploaded into WCAIS?

Continuances should be requested 10 days before the date of the hearing. If you are requesting that the time of the hearing be changed, it should be requested 7 days before the hearing. If you are requesting that the amount of the time should be increased, it should be requested on the first business day of the month before the hearing is to be scheduled as specified in the scheduling order, last hearing or conference calls. Extensions should be requested before the due date especially for position statements or findings .

42. Do you conduct/permit conference call? If so, under what circumstances? Yes  No

**Further explanation:**

I frequently conduct conference calls for numerous reasons--to deal with objections to depositions or subpoenas, to determine if the parties are able to resolve the petition, to check if medical reports or other evidence has been obtained, to determine if mediation should be scheduled, to determine if the period of disability has turned into a closed period, to find out how the parties intend to proceed with the litigation due to various circumstances that arise during the litigation of the disputes, and to follow-up on mediations or MSA approvals.

43. Do you accept faxes and e-mails from the parties? If so, under what circumstances?

Yes  No

**Further explanation:**

A copy of the fax or email and any attachments must be sent to all other counsel and to any unrepresented party.

44. Do you adhere strictly to duration listed for a hearing or mediation or are you willing to go over the allotted time? Yes  No

**Further explanation:**

I will allow the parties to run over for limited period of time for hearings. The amount of time varies with my schedule. I will continue with the mediation even though the time has elapsed. If I have another mediation scheduled, then I will have the parties from the two mediations alternate as needed.

45. What is the best way to contact you in an urgent/emergency situation?

During office hours, call the office, explain the situation to my secretary or the receptionist, who will refer you to me or obtain your contact number or email and contact me to return the call. After hours, email [aguyton@pa.gov](mailto:aguyton@pa.gov).

46. What is your snow/emergency cancellation policy (i.e., do you follow a specific school district closing schedule, etc.)?

Hearing and mediations in Greensburg, PA will be cancelled whenever the Greensburg Salem School District closes due to the weather or emergency conditions. The hearings will be rescheduled for another date. If Greensburg Salem School District issues a delay due to weather or emergency conditions, then any hearing that fall within the delay (before 9:00 am for 1 hour delay; 10:00 am for 2 hour delay) will be cancelled. If the case was scheduled for a Compromise and Release Hearing, contact my secretary to see if a later opening is available for hearing on that date.