

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 first event is a 15-minute hearing. The parties must be prepared to discuss all issues pending and, to the extent possible, the anticipated evidence in support of, and in opposition to, the pending petitions. We will identify all issues and attempt to resolve as many issues as possible or otherwise narrow the issues that must be litigated. The parties shall provide copies of the controlling and relevant Bureau documents. Evidentiary deadlines will be established and the parties should be in a position to address the possibility of mediation. Testimony is not generally heard on the merits, unless the specific situation dictates otherwise. However, testimony is expected at the first hearing with respect to Commutation and Compromise and Release Petitions, as well as Petitions to Compel Physical Examination/Expert Interview and Employee Challenges. Limited testimony for purposes of supersedeas will also be permitted.

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:

First hearing submissions are required in accordance with Rules 131.52(d) and 131.53(a) of the Special Rules of Administrative Practice and Procedure Before Workers' Compensation Judges, 34 Pa. Code Ch. 131. Additionally, the Parties are required to provide copies of the controlling and relevant Bureau documents. With respect to Petitions for Review of Utilization Review Determination,

the parties are expected to provide a copy of the subject Determination and reviewer's report.

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

Exhibits **Documents**

Further explanation:

Moving Party First Hearing Filings and Responding Party 45 Day Filings should be uploaded as "documents" since they are not evidence, but the controlling and relevant Bureau documents should be uploaded as "exhibits."

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

Before **After**

Further explanation:

3. What are your procedures for supersedeas hearings?

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

Further explanation:

Limited testimony for purposes of supersedeas will be permitted but it is not required.

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

Further explanation:

The Parties are expected to present their supersedeas evidence at the time of the first hearing. Any request for additional time for submission of supersedeas evidence will be considered on a case by case basis.

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

Reconsideration of a supersedeas ruling would be done only in extreme circumstances.

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

Further explanation:

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

In order for employee's counsel to obtain an interim fee approval, the fee agreement must be offered in the presence of Claimant and confirmed by Claimant at hearing.

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

Further explanation:

N/A

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

Further explanation:

N/A

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.

At the time of the initial hearing, the parties will be given a date and time for the next full hearing, at which time I expect to hear testimony from all factual witnesses. Unless the particular circumstances dictate otherwise, the second hearing is typically scheduled approximately ninety (90) days following the initial hearing. At the time of the second hearing, the parties will be given the date and time of the final hearing. The evidentiary record will close immediately following the final hearing, such that all evidence must be submitted prior to or during the final hearing. The parties are expected to address the admissibility of all exhibits at the time of hearing. I am willing to modify my standard procedure only when it would be more practical and efficient to do so under the specific circumstances.

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

Further explanation:

I always expect counsel to appear live at hearing and permit participation by telephone only in extreme circumstances. Any request to participate by telephone will be addressed on a case-by-case basis.

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

If a party fails to appear at hearing, they will be afforded ten (10) days to provide a written reasonable explanation for the failure to appear. If the explanation is timely and reasonable, the parties will be allowed to present evidence with respect to the failure to appear. If the explanation is not reasonable or if it is not timely, the party will be precluded from presenting any evidence and the matter will be decided based upon the evidence presented by the opposing party. If the moving Party fails to appear and fails to provide a timely and reasonable explanation for failing to appear, the Petition will be dismissed.

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

Further explanation:

Although I do not have any special procedures in place for psychological injury cases, I am willing to accomodate reasonable requests of the parties if possible.

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:

I prefer to hear all factual testimony live at hearing, especially Claimant's own testimony, but I do allow deposition testimony in accordance with Rule 121.61 et seq. The parties are expected to adhere to Rules 131.52(d), 131.53(a) and (d), and 131.54(c), pertaining to the identification of witnesses and presentation of testimony.

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?

I prefer expert testimony to be obtained by way of deposition but will allow parties to present testimony from expert witnesses live at hearing. I typically do not allow witnesses to testify by phone but will consider any such request on a case by case basis, with consideration given to the geographical location of the witness, the nature of the expected testimony and the physical needs of the witness.

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

The moving party is expected to proceed with the presentation of their evidence first and is typically required to complete the submission of their evidence within ninety (90) days following the first hearing, and the responding party is then typically allowed ninety (90) days from the completion of the moving party's evidence to present their own evidence. If cross petitions are filed, the party filing the first petition will generally be considered the moving party for purposes of submission of evidence, but the order for the presentation of evidence will be determined by the particular issues raised. The moving party should not expect an extension of time for the presentation of medical evidence simply because the responding party has failed to proceed with their own examination or production of medical discovery.

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:

If the parties wish to upload exhibits to WCAIS, it must be done prior to the hearing. In most instances, exhibits uploaded to WCAIS will not be admitted into the record unless they are properly offered and admitted at hearing.

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

Further explanation:

The parties are expected to bring hard copies of all exhibits to the hearings that they intend to utilize at hearing or that must be authenticated by a witness. Original Stipulations, including Compromise and Release Agreements by Stipulation, must be provided and uploaded copies will not be sufficient.

14. When will you rule on objections to exhibits?

I will rule on objections to exhibits when and if they are timely raised.

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

If there is a discovery dispute, each party shall submit their respective position in writing. If I am unable to rule upon same based upon the information provided, I will conduct a telephone conference with the parties or, in extreme circumstances, schedule an expedited hearing. There are very few circumstances requiring me to attend a deposition and would generally not consent to same. If I am otherwise available, I would participate in a conference call should a discovery dispute arise during the course of a deposition.

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

The Parties must properly preserve deposition objections in writing before the close of the evidentiary record. The written preservation of objections will be admitted into the record as a separate exhibit. I will not consider deposition objections preserved for the first time in the parties' Briefs and/or Proposed Findings of Fact and Conclusions of Law. Any objections not properly preserved will be deemed waived.

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:

I permit amendment of existing petitions but there must be a separate petition for each date of injury being resolved in the Compromise and Release Agreement.

- 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:

N/A

- 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:

I require the original agreement at the time of hearing.

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

Further explanation:

The Act 109 documentation, including the Lien Search and Employee Statement, should be submitted as a separate exhibit from the Compromise and Release Agreement.

- 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.

Fee Agreements must be attached to and included with the Compromise and Release Agreement.

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

Confidential information is not to be redacted until after I have confirmed the accuracy of same with Claimant.

- g. Will you sign bench orders? **Yes** **No**

Further explanation:

N/A

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

Further explanation:

Compromise and Release Agreements must be specific as to the payment of medical benefits. When Defendants retain the right to either fund a set aside account or continue payment of medical bills at Defendants' sole discretion, the parties are unable to confirm that medical benefits are, in fact, being resolved. As such, I treat any such Compromise and Release Agreement in which Defendants will later decide whether they intend to fund a set aside, as a resolution of wage loss benefits with medical benefits being left open. My Decision will likewise reflect that should the parties subsequently wish to resolve medical benefits, they must do so through a subsequent Compromise and Release Agreement.

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 Parties must submit the original stipulation and a copy uploaded to WCAIS will not suffice. Depending upon the terms of the stipulation and/or the issues pending, a hearing may be required before a Decision is rendered.

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

Further explanation:

Anything referred to as being "attached" within the stipulation, must actually be uploaded with the stipulation. However, fee agreements must still be properly authenticated and admitted separately.

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

Further explanation:

If Act 109 Documents are necessary, they must be submitted separately. If it is not clear from the terms of the stipulation whether the Act 109 documents are necessary, they will be required.

- 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.

Any documents referred to as being "attached" within the stipulation, must actually be uploaded with the stipulation.

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

Confidential information should not be redacted until after I have confirmed the accuracy of same with Claimant.

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

Further explanation:

N/A

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:

A final hearing is typically conducted for the purpose of confirming the contents of the evidentiary record and the closing of same. I will considering closing a case by electronic submission if appropriate under the circumstances. All evidence must be submitted before the close of the evidentiary record or it will not be considered.

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?

Following the close of the evidentiary record, a briefing schedule is issued, affording the parties an opportunity to submit Proposed Findings of Fact and Conclusions of Law and/or Briefs. I will not consider untimely submissions. I will not consider any items attached to the Proposed

Findings of Fact and Conclusions of Law and/or Briefs as exhibits, including itemizations of litigation costs.

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

The Parties are afforded an opportunity to submit Proposed Findings of Fact and Conclusions of Law and/or Briefs. Briefs should contain a statement of the case, a statement of the issues, a summary of the relevant evidence, a discussion of the applicable law and an ultimate conclusion. It is insufficient to simply restate the evidence of record or to attempt to introduce additional evidence not already part of the evidentiary record.

Mandatory Mediations

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

Wilkes-Barre, PA

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:

N/A

24. 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 Parties are expected to appear live at mediations. Parties will only be permitted to participate in mediations by telephone in extreme circumstances and any such request will be addressed on a case by case basis.

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

If so:

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

While Mediation Statements are not required, they are appreciated and should contain a concise statement of the issues at hand, including the positions of the respective parties and the status of any prior negotiations.

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

N/A

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

The Parties must submit mediation statements at least forty-eight (48) hours prior to the scheduled mediation.

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

Upon receiving a mediation request, every effort is made to schedule the mediation in a timely manner, with consideration given to any time constraints of the parties.

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

Further explanation:

If the circumstances dictate, multiple mediation sessions will be conducted so long as progress can be made. However, a second session will not be arranged simply because a party is unprepared at the time of mediation.

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 I have determined that the matter should be submitted to mandatory mediation, any request to cancel or postpone the mediation should be addressed to me. If I am unavailable or otherwise unable to respond to the request, I will defer to the discretion of the mediating judge. Any such request must include a detailed explanation as to why the matter must be cancelled or postponed. Simply stating that the parties feel mediation is futile is insufficient and any such request will likely be denied.

- 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?

Absent an emergency situation, any request for cancellation or postponement should be made as soon as possible, but no later than forty-eight (48) hours prior to the scheduled mediation.

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

Yes **No**

Further explanation:

The Parties should actually be prepared for the mediation and be able to address all the issues and disputes. The Parties should exchange discovery prior to the mediation and should actually communicate their respective positions to the opposing parties beforehand. If there are unpaid medical bills at issue, the parties should be able to identify the bills and amounts at issue.

Voluntary Mediations:

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

Further explanation:

I am willing to conduct voluntary mediations but I do require mediation statements prior to any voluntary mediation.

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

Wilkes-Barre, PA

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

Yes **No**

Further explanation:

I will mediate disputes that are assigned to me for hearing and decision but will do so only if the parties specifically request that I mediate the matter and I am practically able to mediate the matter.

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 am not inclined to mediate disputes in which one or both of the parties are not represented by counsel, but if I do, I will not conduct any private discussions with either side.

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:

N/A

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:

I expect the Claimant and the attorneys to appear live at mediation. Although it is preferred, it is not generally necessary for a representative of the Defendants to appear live, but they must be available to be reached by telephone when necessary.

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

Further explanation:

Although I do not require a mediation statement for mandatory mediation, one is required for voluntary mediations.

If so:

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

Mediation Statements should contain a concise statement of the issues, an explanation of the positions of the respective parties and a status of prior negotiations.

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

N/A

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

Mediations statements must be submitted no later than forty-eight (48) hours prior to the mediation.

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

Mediations are scheduled in a timely manner, with consideration given for any time constraints the parties may have.

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

Further explanation:

If the circumstances dictate, multiple mediation sessions will be conducted so long as progress can be made. However, a second session will not be arranged simply because a party is unprepared at the time of mediation.

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 I am conducting a voluntary mediation and the parties wish to cancel or postpone the mediation, they should notify 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?

If the parties wish to cancel or postpone a voluntary mediation, they must contact me prior to the day of the mediation.

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

Yes No

Further explanation:

The Parties should actually be prepared for the mediation and be able to address all the issues and disputes. The Parties should exchange discovery prior to the mediation and should actually communicate their respective positions to the opposing parties beforehand. If there are unpaid medical bills at issue, the parties should be able to identify the bills and amounts at issue.

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?

Requests for continuance and extensions must be made, and will be decided, in accordance with Rule 131.13 and Rule 131.12, respectively. I am willing to accommodate requests for changes in hearing times if the schedule permits.

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

Further explanation:

Conference calls are conducted for matters that do not require a formal hearing.

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

Yes No

Further explanation:

I do not accept e-mail communications directly from parties and any e-mail received will be deleted without being viewed. I will accept only correspondence via fax. I require the original for any other submissions.

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:

If I am otherwise able, I am willing to continue beyond the allotted time if necessary but it is decided on a case by case basis.

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

Contact the Wilkes-Barre Workers' Compensation Office of Adjudication.

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

I will cancel proceedings if the Wilkes-Barre Workers' Compensation Office of Adjudication is closed and/or if I determine it is the best interest of public safety to cancel proceedings. However, even if I do not cancel proceedings, I am willing to consider granting a continuance if either party has genuine safety concerns due to weather conditions or other similar emergencies.