

## 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 hearing. On claimant-initiated petitions, my expectation is that the claimant's testimony will be presented at the first hearing. On employer-initiated petitions, it is not my expectation the testimony will be presented. A trial schedule will be given to the parties and a mandatory mediation will be scheduled in either instance.
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:**

I do not require a first hearing filing.

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

**Exhibits**  **Documents**

#### **Further explanation:**

A first hearing filing or, for that matter, a 45-day filing, is not required. Either will be accepted and may be uploaded in the "Documents and Correspondence" tab for the relevant dispute.

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

**Before**  **After**

**Further explanation:**

N/A

3. What are your procedures for supersedeas hearings?

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

**Further explanation:**

My expectation is both parties will present affidavits from the claimant or other witnesses for supersedeas. Limited testimony may be presented, but is certainly not required, consistent with 34 Pa. Code 131.42 and 34 Pa. Code 131.49 (c)(2).

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

**Further explanation:**

It is anticipated that the employer will have it's medical evidence in support of supersedeas at the first hearing. The claimant has 14 days thereafter to submit evidence in opposition to the supersedeas request although longer periods will be allowed for good cause.

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

I will reconsider supersedeas in any case where additional evidence is submitted by the party requesting reconsideration. A hearing on reconsideration is required unless both parties waive their right to a hearing.

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

**Further explanation:**

Supersedeas requests will be decided via written order. In the event no written order is produced, the parties should consult the Special Rules of Administrative Practice and Procedure Before Workers' Compensation Judges to determine their rights.

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

Submission of the fee agreement at hearing and either (1) confirmation by the claimant at the supersedeas hearing that he or she agrees to be bound by that agreement, or (2) submission of an Affidavit executed by the claimant wherein he or she indicates he or she has reviewed the agreement and agrees to be bound by its terms.

- 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.

I use the serial hearing format. Generally, the claimant will testify at the first hearing on all claimant-initiated petitions (Claim, UEGF Claim, Reinstatement). The matter will be relisted for employer testimony, or, if none is required, a status hearing. A final hearing will be scheduled for receipt of any additional evidence. For other claimant-initiated petitions such as a penalty petition, hearings/testimony are scheduled/presented on an as needed basis. For employer-initiated petitions (Termination, Modification, Suspension), the first hearing will be a supersedeas hearing. The matter will be relisted for employer witnesses or a claimant's testimony depending on need. A final hearing will be scheduled for receipt of any additional evidence. This standard hearing format may be modified by necessity.

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

**Further explanation:**

A counsel's personal appearance at hearing is preferred. For hearings when no testimony is anticipated, counsel may appear at hearing by phone if necessary. Participation by phone is preferred as opposed to a continuance if counsel cannot attend a status hearing in person.

When testimony is expected and the right to relief remains in dispute, all counsel are expected to appear at hearing in person. Limited exceptions may be granted upon good cause shown.

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

My first endeavor is to try to determine if the absent party had Notice of the hearing. If my determination is the party had Notice, my normal practice is to reschedule the hearing. If my determination is they did not have Notice, my office attempts to obtain a current address before rescheduling.

If a claimant had Notice and fails to appear at a supersedeas hearing absent emergency circumstances, I will grant supersedeas. If a party fails to appear for successive hearings, any motions raised by the opposing party concerning the lack of participation will be considered.

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

**Further explanation:**

N/A

**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:**

Prior notice is required. That notice may come from statements made at the last scheduled hearing, the content of a first hearing filing, a 45-day filing, or WCAIS Correspondence. At minimum, 7 day's notice should be given if a party intends to present a lay witness.

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?

My preference is for lay witnesses to testify live. I will permit a lay witness to testify by deposition or telephone for good cause shown. Examples may include physical inability to travel or the need to travel great geographic distance. If a lay witness cannot physically appear at hearing, it is preferred that that witness appear by telephone during hearing as opposed to conducting a deposition. Expert testimony may be taken by deposition.

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

My general rule is the party who filed the first petition where medical evidence is at issue will present its evidence first. There are occasions where cross-petitions are filed where the order may be reversed for reasons of judicial economy.

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:**

Exhibits may be uploaded at any point prior to the hearing.

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

**Further explanation:**

As the exhibit is uploaded prior to hearing, no hard copy is required for me. Enough hard copies of each exhibit, however, should be brought to the hearing for all other attorneys as well as any witnesses who will be expected to comment on the same.

14. When will you rule on objections to exhibits?

If the objection is made at hearing, I will rule on the objection on the record or by Interlocutory Order. If a party, prior to the close of the record, preserves objections made at a deposition pursuant to 34 Pa. Code 131.66(b), I will rule on the objections in my final Decision.

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

I will utilize a conference call on occasion but my preference is to address these issues on the record with a court reporter present. I will attend a deposition when requested.

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

Preserved objections must be submitted as an exhibit prior to the close of the record.

**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:**

Either way works.

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:**

The parties may be asked to upload the Compromise and Release Agreement after the C&R Hearing concludes. More likely, however, my office will upload the documentation.

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

**Further explanation:**

This paperwork should be uploaded as part of the Compromise and Release Agreement 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.

The fee agreement, waiver of appeal, costs exhibit, medical bills, set aside documents or any other attachments may be uploaded as part of the Agreement.

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

The social security number, or at least the first five digits, should always be redacted from the Compromise & Release Agreement and the Act 109 documents.

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

**Further explanation:**

None required.

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

**Further explanation:**

N/A

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?

Parties that wish to have a stipulation approved should make a request through WCAIS and upload the stipulation as an exhibit. Any stipulation must be signed and dated by claimant, all counsel, and pro se participants that are subject to the stipulation. Each stipulation must set forth what petitions are being resolved/not resolved. Each stipulation must delineate whether any petitions are being withdrawn, granted, or dismissed and whether the parties are requesting an interlocutory/final order.

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

**Further explanation:**

N/A

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

**Further explanation:**

N/A

- 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 other exhibits should be uploaded as separate exhibits and not as part of the Stipulation.

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

The social security number should always be redacted from the Stipulation. The social security number or the first five digits should be redacted from the Act 109 documents.

- 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:**

The record will close at a final hearing. In limited circumstances, the parties may be granted leave to file exhibits via WCAIS after the final hearing.

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?

I will set the briefing schedule at the final hearing. Generally, the moving party has thirty days to submit a brief after the close of the record. The responding party has thirty days thereafter to submit a brief. At the conclusion of the briefing schedule, the case will be put in line for decision. Late briefs will be considered absent an appropriate objection by the opposing party.

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

Well organized Proposed Findings of Fact and Conclusions of Law are preferred. The Proposed Findings of Fact shall contain correct page citations to the record. The Conclusions of Law shall cite all relevant legal authority.

### **Mandatory Mediations**

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

Pottsville, Lancaster

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:**

It is preferred that the claimant, claimant's counsel, and employer's counsel attend the mediation in person. Alternative arrangements will be evaluated on a case-by-case bases. It is expected that the adjuster/employer representative will be available by phone.

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

If so:

a. What information do you require in that Statement?

A brief letter setting forth the petitions pending, the average weekly wage/compensation rate, a concise description of the issues involved and your position

on each, as well as the extent of any negotiations to date. This letter should be no longer than one or two pages.

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

None.

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?

As long as I have an opening on my schedule, the parties are welcome to take that slot. In choosing a mediation date, the parties should be realistic in their assessment that the case will have progressed to the point that mediation will be fruitful.

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

**Further explanation:**

If the parties believe an additional mediation session will be helpful, I am willing to have one scheduled.

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?

The parties should make a request in WCAIS and contact the mediating judge's office to advise the request has been made.

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?

The day before the scheduled mediation.

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

**Yes**  **No**

**Further explanation:**

It will be exponentially helpful at the mediation if, in a matter where liability is not previously established, the claimant can present billing statements he or she wishes to have paid as part of settlement. Moreover, the claimant should be able to state definitively whether he or she has applied for social security disability and provide the status of his or her application.

The claimant or his or her counsel should be aware of the total amount of litigation costs generated through the date of the mediation. The employer, if applicable, should have relevant information or be able to reach someone during the mediation concerning union issues or vested benefits.

**Voluntary Mediations:**

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

**Further explanation:**

N/A

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

Pottsville, Lancaster

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

**Yes**  **No**

**Further explanation:**

My strong preference is not to mediate my own cases.

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 willing to mediate disputes where one or both parties is unrepresented. 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:**

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:**

It is preferred that the claimant, claimant's counsel, and employer's counsel attend the mediation in person. Alternative arrangements will be evaluated on a case-by-case bases. It is expected that the adjuster/employer will be available by phone.

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

**Further explanation:**

N/A

If so:

a. What information do you require in that Statement?

A brief letter setting forth the petitions pending, the average weekly wage/compensation rate, a concise description of the issues involved and your position on each, as well as the extent of any negotiations to date. This letter should be no longer than one or two pages.

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

None.

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?

As long as I have an opening on my schedule, the parties are welcome to take that slot. In choosing a mediation date, the parties should be realistic in their assessment that the case will have progressed to the point that mediation will be fruitful.

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

**Further explanation:**

If the parties believe an additional mediation session will be helpful, I am willing to have one scheduled.

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?

The parties should make a request in WCAIS and contact the mediating judge's office to advise the request has been made.

- 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?

The day before the mediation.

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

Yes  No

**Further explanation:**

It will be exponentially helpful at the mediation if, in a matter where liability is not previously established, the claimant can present billing statements he or she wishes to have paid as part of settlement. Moreover, the claimant should be able to state definitively whether he or she has applied for social security disability and provide the status of his or her application. The claimant or his or her counsel should be aware of the total amount of litigation costs generated through the date of the mediation. The employer, if applicable, should have relevant information or be able to reach someone during the mediation concerning union issues or vested benefits.

**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?

Any request should be made through WCAIS. The parties are directed to review 34 Pa.Code 131.31 as that is what I will be considering in determining whether to grant the continuance. Repeated requests for continuances are strongly discouraged.

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

**Further explanation:**

I will occasionally utilize conference calls in my cases. The parties may request a conference call and I will occasionally hold one but my preference is to schedule a quick hearing and address the issue on the record.

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

Yes  No

**Further explanation:**

With the advent of WCAIS, the parties should use the features of that system.

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 do not strictly adhere to the predetermined time allotment for hearings or mediations. In the hearing context, deciding whether to end the hearing as scheduled will depend on (1) whether there is another matter scheduled immediately following the hearing subject to the timing issue, and (2) the extent of dialogue/questioning that remains to be completed. The parties may be asked to come back at a later date to complete the hearing/testimony.

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

Call my secretary.

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

I try to decide whether to cancel hearings or mediations the day before, have an alert posted on WCAIS, and have my office call attorneys and unrepresented parties to inform them. Counsel should then alert their clients, and any witnesses who may have been attending the hearing, of the cancellation.