

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 fifteen-minute hearing. The parties should be prepared to discuss: (1) factual, medical, and legal issues presented; (2) proposed amendments to pleadings; (3) stipulations of matters not in dispute; (4) the identity of anticipated expert and fact witnesses; and (5) timing and scheduling of mediation.

I will establish evidentiary deadlines, place a Scheduling Order on the record, and schedule mediation.

Brief testimony from the claimant, concerning supersedeas or other issues, will be allowed if time permits.

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:

The moving party should upload a First Hearing Filing on the attached form into WCAIS before the first hearing. The parties should also upload the controlling and relevant Bureau documents, whenever possible, prior to the first hearing. The responding party shall file a Responding Party 45-Day Filing form within 45 days of the first hearing.

Please use the attached "Moving Party First Hearing Filing" and "Responding Party 45-Day Filing" forms.

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

Exhibits **Documents**

Further explanation:

First Hearing Filings and Responding Party 45-Day Filings should be uploaded as documents. Bureau documents should be uploaded as exhibits.

- 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:

Limited testimony is permitted but not required. An affidavit from the Claimant is preferred and will be considered for supersedeas purposes only.

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

Further explanation:

The parties are expected to provide supersedeas evidence at the time of the first hearing. The responding party may request additional time to obtain medical evidence and requests for extensions will be granted on a case-by-case basis.

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

If the parties request reconsideration supported by new and material evidence. A hearing on reconsideration is required, unless waived by the parties.

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

Further explanation:

Generally, written orders are issued; however, no written order would issue if a claimant is only receiving medical benefits.

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

A denial of a request for supersedeas and the submission of a signed fee agreement. If the claimant has not testified concerning the fee agreement at a hearing, then an affidavit from the claimant concerning the understanding and signing of the fee agreement is required.

- 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.

A serial hearing format is used. After the first hearing, the matter will be re-listed for Claimant's testimony. Following Claimant's testimony, subsequent hearing(s) will be scheduled for for additional testimony if necessary. I will change the hearing format upon request of the parties after discussion with them as to why the change is needed and whether any party objects.

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

Further explanation:

Counsel are generally expected to appear for scheduled hearings. I may allow counsel to participate by phone either by pre-arrangement or on an emergency basis. If by pre-arrangement, the attorney must submit a request via WCAIS setting forth: (1) the reason for the request; (2) agreement or non-agreement of opposing parties; and (3) the phone number where counsel can be reached. Telephone participation by counsel will generally be disallowed for hearings involving the examination of witnesses.

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

I will write a letter, enter a show cause order, or re-list, depending on the circumstances. I may also attempt to contact counsel by phone, in the presence of the appearing parties. I will, however, generally grant supersedeas if a claimant had notice and fails to appear at the supersedeas hearing.

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:

Witnesses must be identified in a First Hearing Filing or a Responding Party 45-Day Filing, or a written request to present witness testimony at least 30 days prior to the hearing. Written requests should identify the witnesses and indicate how much time will be needed for direct and cross-examination so that my office may allocate enough time to complete the 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?

The claimant's testimony and fact witness testimony are to be presented at hearings. Fact witness testimony may be permitted by deposition with the agreement of opposing parties. In situations where in-person testimony of a party or fact witness would be difficult to arrange, telephone testimony or deposition testimony will be discussed. Medical and Vocational expert testimony will be permitted 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?

Generally, the party with the burden of proof is expected to proceed first with its evidence, including medical evidence. If cross petitions are filed, the party filing the first petition will generally be considered the moving party. In the event a petition to review the injury description is filed after Defendant's petition, the order will be discussed at the first hearing and determined on a case-by-case basis.

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:

I prefer that exhibits be uploaded no less than two days before the hearing. Parties should inform the WCJ at the time of the hearing that they have uploaded exhibits so that objections to the admissibility of an exhibit can be addressed at that time. Exhibits uploaded after a hearing will not be moved into evidence until the next scheduled hearing, unless agreed upon in advance during a hearing.

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

Further explanation:

Hard copies are not required for exhibits previously uploaded with the exception of exhibits to be authenticated or utilized by a witness during testimony. Surveillance DVDs must be submitted in hard copy. Please see 17(a-f) below for Compromise and Release procedure.

14. When will you rule on objections to exhibits?

I will rule on objections to exhibits when offered at a hearing. I will rule on preserved objections to exhibits offered during depositions in my final decision. Upon request, I will provide the parties with an opportunity to submit briefs and rule on the admissibility of an exhibit by IO if no further hearings are planned or if the parties need a ruling in order to proceed with their case.

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

Telephone conferences or a hearing, but my preference is to address these issues on the record with a reporter present. I am willing to attend depositions if necessary, but prefer to have the witness attend a hearing.

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

The due date for briefs and proposed findings is the last day written preservation of objections will be received. The written preservation of objections will be marked and admitted into the record as an exhibit.

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:

If there is only one petition pending and the parties want a decision on that petition on the merits, then that petition cannot be amended and a petition seeking approval of a compromise and release agreement must be filed. Also, the parties must file a separate petition for each injury date to be resolved and a separate C&R agreement should be used for each injury date with consideration allocated to each injury date.

- 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:

My office will upload the fully executed C&R documents following the hearing in order to expedite issuance of the C&R decision.

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

Further explanation:

My office will upload the fully executed child support documents. They should be provided as a separate 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.

Whatever the parties wish to include as part of the C&R Agreement, to be attached to my decision when circulated, should be included as part of the C&R Agreement exhibit.

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

They should be redacted from the C&R Agreement and any attachment to that Agreement that the parties wish to have attached to the decision approving the C&R. My office will redact the SSN from the child support documents after the claimant has testified at the C&R hearing, before my office uploads the documents.

- 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:

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?

Stipulations should be fully executed and uploaded into WCAIS as an exhibit. The Stipulation should expressly indicate whether or not all pending petitions are resolved and include a statement as to the status of the claim going forward, e.g., benefits payable, benefits suspended, or benefits terminated. I will attach the Stipulation to my decision approving it.

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

Further explanation:

If the parties wish to have the fee agreement attached to the decision that will circulate approving the Stipulation, then it should be part of the Stipulation exhibit. Otherwise, the fee agreement should be uploaded as a separate exhibit if it is not already part of the record.

- 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.

Whatever the parties wish to have attached to the Stipulation, that will be attached to my decision when circulated, should be included as part of the Stipulation exhibit.

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

The SSN and any other confidential information should be redacted from the Stipulation and any attachment to the Stipulation exhibit. If, however, the parties upload the child support documents, the confidential information should NOT be redacted as I must confirm there are child support issues based upon the correct SSN.

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

Further explanation:

Stipulations must be signed by the claimant and include a paragraph indicating claimant has entered into the fee agreement and understands that the fee is going to be deducted from his or her benefits, if applicable.

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:

N/A

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?

At the conclusion of the final hearing, I will establish a briefing schedule allowing for 30 days after the last transcript should be received within which to submit briefs and proposed findings. Applications for quantum meruit fees, itemizations of costs and expenses, written preservations of deposition objections, child support documents, and similar documents may be offered with the submission of briefs and proposed findings, but must be copied to opposing counsel who may lodge objections. The record closes on the last day the briefs and proposed findings are due. If no extension is requested, the Dispute goes into Waiting for Decision status as of the date the last brief is due.

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

Post-trial submissions should include proposed findings of fact and conclusions of law, a proposed order, and a supporting brief that specifically sets forth the issues to be decided and legal argument. Proposed finding of fact

should be supported by a specific cite to the record, with deposition and hearing transcript references referred to by page and line numbers. All references to the Act, governing regulations, and case law should be properly cited.

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:

Claimant and all counsel are required to attend in person. Employer and adjuster may participate by phone provided that they are available for the duration of the mediation session. I expect that the participating representative from the employer/insurance carrier will have ultimate authority to resolve the dispute.

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

If so:

a. What information do you require in that Statement?

Each party should complete the attached form and submit it through the Mediation tab in WCAIS, not as a letter to the judge. The parties may submit a Mediation Statement in an alternate format provided that all relevant information requested on the form is included. Please see the attached "Mediation Conference Disclosure Report" form.

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?

The Mediation Statement should be provided at least two days in advance.

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

The timing of the mediation will be discussed at the first hearing. I will attempt to schedule mediation based upon a determination as to when it is most likely to be productive and beneficial to the parties.

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

Further explanation:

N/A

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 contact me, the assigned judge.

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?

As soon as possible, but not less than three (3) days in advance, absent special circumstances.

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

Yes **No**

Further explanation:

The parties are strongly encouraged to engage in settlement discussions prior to the mediation date. Settlement demands should be made sufficiently in advance and settlement authority should be obtained and communicated to claimant in advance so as to facilitate meaningful and productive discussions. Counsel should be prepared to address any issues particular to the case, such as unpaid or future medical expenses, liens, credits, offsets, ect.

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.

Wilkes Barre, PA

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

Yes No

Further explanation:

The parties must agree on the record or via a Voluntary Mediation Agreement that it is acceptable that I conduct the mediation and remain the adjudicating judge.

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 would not mediate one of my own cases with an unrepresented party.

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:

Please use the attached "Voluntary Mediation Agreement" form if the case is assigned to me.

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:

Same policy as for mandatory mediations. See 24 above.

36. Do you require a Mediation Statement? Yes No

Further explanation:

Same policy as for mandatory mediations. See 25 above.

If so:

a. What information do you require in that Statement?

See 25 (a) above.

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?

See 25 (c) above.

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

I will attempt to accommodate the parties requesting voluntary mediation.

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

Further explanation:

N/A

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?

For voluntary mediation, the parties should contact me as well as the assigned judge.

- 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?

At least two days before the scheduled mediation.

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

Yes **No**

Further explanation:

See 29 above.

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?

Absent an emergency, the Special Rules of Administrative Practice and Procedure before Workers' Compensation Judges are followed. Requests should be uploaded in WCAIS.

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

Further explanation:

Conference calls are permitted for matters that do not require a formal hearing or record.

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

Yes **No**

Further explanation:

Please utilize WCAIS whenever possible. Otherwise, I will accept faxes, but not e-mail. I will not accept e-mail communications directly from the parties and any e-mail received will be deleted without being viewed.

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 to do so, I will continue beyond the allotted time if necessary.

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

Contact the Wilkes-Barre Office of Adjudication via phone at (570)826-2489.

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

I will cancel hearings and mediations if the Wilkes-Barre Office of Adjudication is closed and/or if I determine it is in the best interest of public safety to cancel hearings. I will also grant continuances if a party has safety concerns for weather or other emergencies. The parties should check WCAIS and call the Wilkes-Barre office for updates on hearing cancellations.

Attachments:

[Mediation Disclosure Form](#)
[Moving Party Filing](#)
[Responding Party Filing](#)
[Voluntary Mediation Agreement](#)