

## **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 hearing will be scheduled and held as a pre-trial, during which the following will occur:
  - a) Discussion and identification of evidence and witnesses to be offered by each party and the amount of subsequent hearing time necessary for the same.
  - b) Discussion and exchange of discovery materials and information.
  - c) Discussion for scheduling of one day trial hearing, and/or mediation.
  - d) Exploration of stipulations as to facts and issues, to shorten the trial process.
  - e) Setting of deadlines for completion of medical depositions.
  - f) Receipt of evidence in support or opposition to supersedeas requests.
  
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 parties may provide the information described in the previous answer verbally on the record or in writing. However, pre-hearing memorandums, setting forth the information addressed in the answer to question no. 1, are always appreciated.

- 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:**

Testimony may be presented at the request of counsel, in petitions involving a request for special supersedeas, i.e. employee challenge/petition for termination based upon a physician's affidavit. However, affidavits, documentary exhibits and medical reports may generally be submitted at either time of hearing or within a time frame to be fixed at hearing. Rulings upon the request for supersedeas are made within the time frames set forth in the Special Rules of Administrative Practice and Procedures before Workers' Compensation Judges (Special Rules), 34 Pa Code Ch 131, unless good cause for extension of time is shown.

Reconsideration will be afforded upon request and after hearing, if warranted, due to new evidence or a change in circumstances.

Written orders are issued for both denials and the granting of supersedeas.

Interim counsel fees may be obtained upon the submission of a written fee agreement.

The evidence must demonstrate that the employee and his/her counsel have agreed to the initiation of fees upon denial of supersedeas.

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

**Further explanation:**

[Click here to enter text.](#)

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

[Click here to enter text.](#)

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

**Further explanation:**

[Click here to enter text.](#)

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

A denial of Supersedeas in an Employer Petition seeking to modify, suspend or terminate indemnity benefits.

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

**Further explanation:**

[Click here to enter text.](#)

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

**Further explanation:**

[Click here to enter text.](#)

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.

Cases are heard on a modified one day/one hearing basis. The first hearing in the case will be held as a pre-trial. A subsequent hearing will then be scheduled, at which time all lay witness testimony and evidence will be presented and submitted by both parties. At the conclusion of such hearing, the action is continued for the parties' completion of mediation unless futile and medical depositions. Although either party may proceed with the completion of medical depositions at an earlier time, no later than 15 days following the selected date for mediation, or if deemed futile, the hearing at which all lay witness testimony was presented, the moving party shall submit notice scheduling that party's medical deposition, with such medical deposition to be completed no later than 60 days following the latter of mediation or lay witness testamentary hearing. Subsequently, the responding party, no later than 15 days following the completion of the moving party's medical deposition, shall submit notice scheduling its responsive medical deposition, with that medical deposition to be completed no later than 60 days following the completion of the moving party's medical deposition.

Subsequent to the completion of the latter of mediation or the lay witness testamentary hearing, typically the act is diaried by this judge for a period of 120 days, in anticipation of all medical depositions being completed and in order that a final scheduling order may be issued by this judge, notifying the parties of the deadlines for the close of the record and submission of Proposed Findings of Fact and Conclusions of Law. Upon provision of substantial or compelling reasons, this judge is willing to to modify the one day/one hearing format and/or scheduling orders, at the parties' request, if justice necessitates the same. In addition, in the event that, subsequent to the lay witness testamentary hearing, factual circumstances change or matters arise which could not have been anticipated to have been addressed at the testamentary hearing, the parties are not foreclosed from requesting an additional hearing to present rebuttal testimony.

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

**Further explanation:**

Participation by telephone, by counsel at pre-trial or status conference hearing is routinely permitted when no testimony is going to be presented. Counsel must obtain prior concurrence from all other attorneys, their own clients and this office, of their need to appear by telephone, including providing the appropriate telephone number at which counsel can be reached at the time of hearing. Counsel are not permitted to participate in hearings by telephone, wherein any testimony by a witness(s) is intended to be presented, including compromise and release hearings.

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

In the event that a party fails to appear at the first hearing, an interlocutory order is issued, notifying the parties of the conduct of the hearing, and the party's failure to appear. The non-attending party is required to subsequently present written notice of a substantial or compelling basis for its failure to attend the hearing and whether it has any intent to prosecute/defend against the pending petition and whether it has any objections to the admission of any exhibits which may have been submitted by the attending party at the hearing. The non-attending party is notified that its failure to provide such information within the time period set forth in the interlocutory order shall be deemed as a stipulation to the withdrawal of the petition if the non-attending party is the moving party to the petition, or, in the alternative, if that party is the responding party, that party's admission to the moving party's entitlement to the relief requested in the petition. In the event the non-attending party timely responds to the interlocutory order, a subsequent hearing is scheduled to either address the basis submitted and/or proceed with the underlying petitions.

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

**Further explanation:**

[Click here to enter text.](#)

**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:**

Other than medical or expert testimony, which is typically completed by deposition, in the absence of stipulation of all counsel, any lay-witness testimony is to be presented at hearing. Typically the identity of witnesses to be presented at the testamentary hearing are confirmed at the time of the pre-trial conference, as well as the amount of time required to complete that testimony, with the testamentary hearing being scheduled to accommodate the anticipated 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?

Although live testimony before this judge at hearing is preferred with respect to any lay witnesses, where a credibility issue may exist, and particularly with respect to the claimant, upon stipulation of both counsel, counsel may conduct testimony of lay witnesses by deposition. If proceeding by way of deposition, upon stipulation of counsel, counsel may conduct such deposition by phone. No live testimony in any petitions before this judge is conducted by telephone, in the absence of extraordinary reasons.

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

Cases are heard on a modified one day/one hearing basis. The first hearing in the case will be held as a pre-trial. A subsequent hearing will then be scheduled, at which time all lay witness testimony and evidence will be presented and submitted by both parties. At the conclusion of such hearing, the action is continued for the parties' completion of mediation unless futile and medical depositions. Although either party may proceed with the completion of medical depositions at an earlier time, no later than 15 days following the selected date for mediation, or if deemed futile, the hearing at which all lay witness testimony was presented, the moving party shall submit notice scheduling that party's medical deposition, with such medical deposition to be completed no later than 60 days following the latter of mediation or lay witness testamentary hearing. Subsequently, the responding party, no later than 15 days following the completion of the moving party's medical deposition, shall submit notice scheduling its responsive medical deposition, with that medical deposition to be completed no later than 60 days following the completion of the moving party's medical deposition.

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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:**

Counsel are not required to upload exhibits to WCAIS prior to hearing, although it is preferable if counsel are able to upload the exhibits in advance of the hearing day.

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

**Further explanation:**

Counsel are not required to bring hard copies of the exhibits to the hearing, other than if the opposing counsel or party does not have WCAIS access. Additionally, in the event that counsel intends on using the exhibit during the course of testimony, a hard copy for the witnesses' review will be necessary.

14. When will you rule on objections to exhibits?

Counsel are advised at the time of the pre-trial conference, as well as subsequent hearing, that exhibits uploaded onto WCAIS will be marked into the evidentiary record as admitted, but with the understanding that hearsay or other relevant objections are deemed preserved pending the parties' completion of the case in chief. Prior to the close of the evidentiary record, and in advance of the parties' submission of Proposed Findings of Fact, counsel are provided with an opportunity to review the evidentiary record, and confirm whether there are any exhibits that are presently marked as admitted, which counsel believe objections have not been properly remedied. If need be, a status telephone conference can be scheduled to address any such disputes.

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

Teleconferences are highly recommended, so that discovery issues do not stall the progress of the case until a hearing can be held. Counsel should notify me as soon as the dispute arises. Rulings are either placed on the record during the telephone conference, or are confirmed by letter or written order, which shall be made a part of the record. I will attend a deposition only if my schedule permits and there are particularly compelling reasons to do so.

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

See Special Rule 131.66(b)

**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:**

[Click here to enter text.](#)

- 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:**

7 days in advance.

- 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:**

Hard copies of the executed C&R Agreement may be brought to hearing.

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

**Further explanation:**

[Click here to enter text.](#)

- 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.

Counsel may either upload additional exhibits as part of the compromise and release agreement or as separate exhibits.

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

Social Security numbers should be redacted from the C&R Agreement and Act 109 Document before uploading, but with unredacted Act 109 Documents available at hearing.

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

**Further explanation:**

[Click here to enter text.](#)

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

**Further explanation:**

[Click here to enter text.](#)

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 of Fact, executed by the parties are routinely approved and adopted as part of orders resolving all or any part of a dispute. A fee agreement to be approved may be either uploaded as part of the stipulation, or as a separate exhibit.

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

**Further explanation:**

See 18A

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

**Further explanation:**

[Click here to enter text.](#)

- 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.

Counsel may upload any additional documents deemed relevant to the Stipulation either as part of the Stipulation or as separate exhibits.

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

See 17F

- 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:**

[Click here to enter text.](#)

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?

As part of a final scheduling order, counsel are provided with date specifics for submission of Proposed Findings of Fact and Conclusions of Law and the close of the evidentiary record. In the event that Proposed Findings of Fact and Conclusions of Law are not received in a timely manner, typically counsel are advised that the matter has been placed in line for decision, and that their Proposed Findings may be considered if received prior to the issuance of a decision in the matter.

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

In most cases, post-trial submissions should read like a decision, not a brief. They should:

- a) contain Proposed Findings of Fact which accurately summarize the important portions of the testimony and exhibits, with citations to the portions of the record from which those findings are drawn.
- b) clearly and concisely state the Findings of Fact essential to disposition of all issues and pending petitions, and,
- c) make necessary credibility determinations, with any explanation as to why the credibility determinations were made.

The post-trial submissions should also include Proposed Conclusions of Law, citing applicable sections of the Workers' Compensation and/or Occupational Disease Act, regulations and pertinent case law.

Proposed Findings of Fact and Conclusions of Law should not be overly argumentative. They should accurately summarize any important portions of testimony necessary to the determination, and not just summarize the testimony that is supportive of the submitting party's position. The parties may submit a supplemental letter brief asserting argument as to why the that party's Proposed Findings and Conclusions of Law should be accepted. As both party's submissions are due simultaneously, either party is permitted, but not required, to submit a responsive, concise letter brief addressing matters raised in the opposing party's submissions, which could not previously have been anticipated or where an opposing party has clearly misrepresented or misstated the exiting law or evidentiary record.

## **Mandatory Mediations**

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

Mandatory or Voluntary Mediations are conducted at the Clearfield, Altoona, State College, Lock Haven, and Lewistown hearing locations. Additionally, if circumstances would necessitate, and scheduling concerns permit, consideration may be given to conduct mediations at other approved WCOA hearing locations.

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, 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:**

At a minimum, both counsel and the claimant are required to attend the mediation personally, in the absence of particularly compelling circumstances. Additionally, although the personal attendance of an adjuster or employer representative with settlement authority is preferred, such individuals attendance is not required, provided that individual is readily available by telephone, throughout the course of the mediation.

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

If so:

a. What information do you require in that Statement?

Counsel are required to submit a mediation statement at least seven days in advance of the mediation. With respect to the information to be included in the mediation statement, counsel are provided with a recommended mediation disclosure form at the time mediation is initially scheduled.

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

Counsel may provide additional documents, if desired, relevant to the Mediation.

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

See 25A

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

As scheduling permits.

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

**Further explanation:**

[Click here to enter text.](#)

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?

Requests for cancellation or postponement of mediations are to be avoided in the absence of compelling circumstances. In the event of such compelling basis to request a cancellation or postponement, any such request should be directed to the assigned judge, as opposed to mediating judge, in the absence of a last minute emergency where the assigned judge cannot be reached. Otherwise the request should be made with as much advanced notice as possible, at least ten days prior to the scheduled mediation.

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?

N/A

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

**Yes**  **No**

**Further explanation:**

Counsel should at the least, have been in contact with each other, and preferable have exchanged opening offers and demands.

**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.

Mandatory or Voluntary Mediations are conducted at the Clearfield, Altoona, State College, Lock Haven, and Lewistown hearing locations. Additionally, if circumstances would necessitate, and scheduling concerns permit, consideration may be given to conduct mediations at other approved WCOA hearing locations

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

Yes  No

**Further explanation:**

Upon the stipulation of both counsel and the parties, I am willing to conduct voluntary mediations on cases assigned to me for hearing and decision, depending upon the underlying nature of the petition, and evidentiary status of the proceedings.

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:**

[Click here to enter text.](#)

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:**

[Click here to enter text.](#)

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:**

At a minimum, both counsel and the claimant are required to attend the mediation personally, in the absence of particularly compelling circumstances. Additionally, although the personal attendance of an adjuster or employer representative with settlement authority is preferred, such individuals attendance is not required, provided that individual is readily available by telephone, throughout the course of the mediation

36. Do you require a Mediation Statement? Yes  No

**Further explanation:**

Counsel are required to submit a mediation statement at least seven days in advance of the mediation. With respect to the information to be included in the mediation statement, counsel are provided with a recommended mediation disclosure form at the time mediation is initially scheduled.

If so:

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

[Click here to enter text.](#)

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

See 25B

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

See 36A

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

As scheduling permits.

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

**Further explanation:**

[Click here to enter text.](#)

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?

Requests for cancellation or postponement of mediations are to be avoided in the absence of compelling circumstances. In the event of such compelling basis to request a cancellation or postponement, any such request should be directed to the assigned judge, as opposed to mediating judge, in the absence of a last minute emergency where the assigned judge cannot be reached. Otherwise the request should be made with as much advanced notice as possible, at least ten days prior to the scheduled mediation.

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?

See 29A

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

**Yes**  **No**

**Further explanation:**

Counsel should at the least, have been in contact with each other, and preferably have exchanged opening offers and demands.

**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?

Continuance requests are addressed consistent with the Special Rules of Practice before Workers Compensation Judges.

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

**Further explanation:**

[Click here to enter text.](#)

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

**Yes**  **No**

**Further explanation:**

[Click here to enter text.](#)

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:**

As circumstances permit or necessitate.

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

Clearfield Office Staff

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

Hearing or Mediation cancellations are fairly rare, but decided on a day by day basis, contingent upon the degree of inclement weather and location of hearings.