

JUDGE'S PROCEDURAL RULES AND POLICIES

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, they should be completely redacted before the document is uploaded, unless otherwise specified below. All communications with the Judge, including but not limited to requests, should be submitted through WCAIS unless otherwise specified by the Judge.

HEARING PROCEDURES

1. What is the first event and what will occur?

All first hearings are virtual pre-trial hearings. There will be a modified call of the list for all pre-trial hearings. Timeliness is expected. The parties should advise of any stipulations and provide the procedural status. The moving party is required to advise how they will proceed. A mandatory trial schedule will be set.

a. List any documents required at the first event:

The controlling Bureau document should be uploaded to WCAIS prior to the hearing. Depending on the petition, supersedeas documents and/or C&R Agreements should also be filed.

b. Should documents be uploaded as Exhibits or Letters to the Judge?

Exhibits.

2. Describe the format of your hearings (e.g., serial, one day – one trial).

Serial hearings. There will be a pre-trial hearing, an interim listing for the moving party's evidence and a final hearing for submission of the responding party's evidence and testimony of Claimant. Scheduling may change with certain petitions (Employee Challenge, C&R, Penalty or Utilization Review).

3. Are you willing to change the hearing format upon request?

Yes, I would consider a request to change the hearing format upon a showing of good cause by the parties.

4. What factors will you consider in deciding whether to conduct a hearing in-person?

All non-testimony hearings will be heard virtually. All testimony hearings will be scheduled virtually by default. A request for an in-person hearing for testimony must be made at the interim hearing on the record or via a timely WCAIS request. Factors to be considered include but are not limited to the following: health concerns, the substance of the request and noted reasons for the request, the timeliness of the request, and any objections to the request.

5. What factors will you consider in deciding whether to conduct a virtual hearing by audio only or by audio with video?

Video participation is required for all virtual hearings. Exceptions will be made on a case-by-case basis depending on the circumstances. If a party cannot participate by video, make a WCAIS request.

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

There is no standard procedure. The consequences of non-attendance at a hearing when a party is provided with proper notice will depend upon the circumstances of the case and will include dismissal of the matter, if warranted.

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

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

Upload supersedeas exhibits as well as the controlling document prior to the hearing via WCAIS. When filing the exhibits, ensure that the supersedeas box is checked on upload.

a. Will testimony be heard?

No.

b. Is additional time generally granted to obtain medical evidence?

Employer presumably already has medical evidence in hand. Additional time will be granted, if required, for Claimant's response. Claimant will have 14 days from the first hearing to submit his or her documents in opposition.

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

Upon submission of new evidence and a WCAIS request for reconsideration.

d. Do you generally use written orders for denials? Yes.

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

A denial of supersedeas based on Claimant's submission of evidence in opposition to Employer's request for supersedeas, including an Affidavit from Claimant their understanding of the terms and implications of the fee agreement as well as a copy fee agreement.

f. Describe any other procedures for supersedeas hearings: N/A

g. Describe procedures for special supersedeas hearings, if different:

N/A

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

For Claim, Review and Reinstatement petitions filed by Claimant, Claimant should testify by deposition within 30 days of the first hearing. Claimant may testify by way of update at a final hearing. For Employer Petitions, Claimant may testify for discovery purposes within 30 days of the first hearing and will testify at a final hearing. Fact witnesses can testify by deposition or at a hearing upon timely request. All non-testimony hearings will be conducted virtually by video, including C&R hearings. Testimony will be virtual unless an in-person hearing is requested by the parties and there is no objection. Any objection will be ruled upon on a case-by-case basis. Hearings for disfigurement will be in-person unless there is an objection.

2. Do you require testimony at a virtual hearing, an in-person hearing, or by deposition?

This will depend on the specific facts of the case and position of the parties.

3. Under what circumstances will you change your requirements for presentation of testimony?

Upon good cause shown.

4. If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice? Yes. If yes, how much notice do you require? At least 30 days.

5. What is your procedure regarding the order of expert medical testimony when cross petitions are filed?

Testimony is to be presented by the moving party first, followed by the responding party. With cross petitions, the party that filed first proceeds first.

6. Do the parties need to upload the Bureau and WCOA documents as exhibits or will you admit them electronically as Judge exhibits?

The parties should upload the documents prior to the first hearing at which time they will be admitted as Judge Exhibits.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? If before, how far in advance of the hearing must they be uploaded?

Before. The parties should upload exhibits at least one business days prior to the hearing.

8. When will you rule on objections to exhibits?

If there is an objection to the submission of the exhibit itself, I will rule on the objection at a hearing. If it is an objection contained in a deposition transcript, I will rule on the objection in the final decision, if preserved in accordance with the WCJ rules.

9. What is your procedure for handling discovery disputes?

Counsel should make a WCAIS request attaching a letter outlining the dispute and their position. Opposing counsel should upload a response in letter form. A ruling will be made by interlocutory order or at a hearing.

10. What is the last day to file written preservations of deposition objections?

At the final hearing.

COMPROMISE & RELEASES (C&Rs)

1. Describe your procedures regarding the review of C&R Agreements:

The requirements are two-fold: 1) Email a fully executed, unredacted copy of the C&R to me in advance of the hearing; and 2) Upload a fully executed, redacted C&R Agreement to WCAIS prior to the hearing.

a. Are you willing to allow amendments of existing petitions or do you require the filing of a separate Petition Seeking Approval of a C&R Agreement?

An existing petition can be amended at the hearing. The filing of a C&R Petition is only necessary if the case warrants.

b. Are parties required to provide a draft of the C&R Agreement before the hearing? If yes, how far in advance of the hearing do you need to receive it?

Yes, a fully executed, unredacted copy must be emailed to me one business day prior to the hearing.

c. Should the parties upload the signed C&R Agreement, including the fee agreement and any other attachments, before or after the hearing?

Yes, a fully executed, redacted copy of the C&R must be uploaded to WCAIS prior to the hearing.

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

e. Should Social Security numbers and other confidential information be redacted from the C&R Agreement and Act 109 documents?

Yes, the confidential information should be redacted before uploading the C&R exhibit into WCAIS.

f. Will you sign bench orders? No.

g. Describe any other procedures you have for C&R Agreements: C&R hearings will be conducted virtually and Claimant must be on video for the hearing.

STIPULATIONS RESOLVING DISPUTES

1. What are your usual procedures regarding the submission, review, and adoption of stipulations?

All stipulations should comply with the Special Rules of Administrative Procedure before Workers' Compensation Judges. The stipulation will be rejected if it is not signed by the Claimant or unrepresented Employer, if it is not in compliance with the Special Rules. When a stipulation has been executed, there are two required WCAIS filings: 1) A Miscellaneous request needs to be filed advising of the resolution with a request for judicial review; and 2) The redacted and an unredacted Stipulation and all attachments referred to in the stipulation, as well as the child support documentation, should also be uploaded as an Exhibit.

2. Should the fee agreement be part of the stipulation or separate exhibit? Yes, the Fee Agreement must be part of the Stipulation if it is being approved.

3. Should child support documents be uploaded as a separate exhibit? No, they should be attached.

4. What other exhibits should be uploaded (i.e. medical bills, etc.)?

All attachments referred to in the Stipulation should be made part of the Stipulation Exhibit. No other exhibits are necessary.

5. Should other exhibits uploaded as be part of the stipulation or as separate exhibits?

If additional items are to be attached to the Stipulation, they should be uploaded as part of the Stipulation.

6. When should Social Security numbers and other confidential information be redacted from the stipulation and Act 109 documents?

A redacted and unredacted version should be uploaded to WCAIS.

7. Describe any other procedures you have for stipulations: Comply with the Special Rules of Administrative Procedure before Workers' Compensation Judges.

BRIEFS AND PROPOSED FINDINGS

1. Will you close a case via WCAIS submission or is a final hearing required?

A final hearing is required. At the final hearing, the record will be certified and a briefing schedule will be set.

2. What are the time requirements for final submissions and what procedures are taken when time requirements are not met?

A briefing schedule will be set at the final hearing. Any request for extension of the briefing schedule must be made prior to the expiration of the briefing schedule in WCAIS and must include the reason for the request, a new proposed date for the submission and the position of opposing counsel. Extensions of time will generally be granted for good cause. Parties who do not file a timely brief or a timely request for an extension for filing their brief risk a decision being issued without the benefit of that party's brief. The parties are reminded that the responding party's brief is due within the time specified per the briefing schedule regardless of when or whether the moving party's brief has been submitted, unless an extension is requested.

3. Describe any preferences regarding the format and content of final submissions:

No specific format is required. However, all briefs must contain a procedural history and a summary of all the evidence with proposed findings of fact and conclusions of law. Clearly state what relief is being sought. An effective brief is one that provides an analysis of credibility. Citations to the record are required.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

The Philadelphia hearing office. I will conduct mediations via TEAMS.

2. What factors will you consider in deciding whether to conduct a mandatory mediation virtually or in-person?

All mandatory mediations will be scheduled virtually by default. I will consider a request for an in-person mediation. Such requests must be made 30 days in advance and must provide the position of the parties. An in-person mediation will be considered based upon good cause shown as per the discretion of the Judge.

3. What factors will you consider in deciding whether to conduct a virtual mandatory mediation by audio only or by audio with video?

Video participation is required for all parties participating in the mediation. I will defer to claimant's counsel as to whether they want their client to attend or to have their client available. Parties should utilize the Microsoft Teams link and only use the dial in number as a last resort.

4. Are you willing to allow counsel or a party to participate virtually in an in-person mandatory mediation? If so, under what circumstances?

This will depend on the specific facts of the case and position of the parties.

5. Do you require a Mediation Statement? Yes If yes:

a. What information do you require in that Statement?

I prefer a one or two-page summary that provides the pertinent case facts, the strengths and weaknesses of your case and any impediments to resolution. These include: Case name, submitting party, presiding judge, date of injury, accepted/alleged injury, petitions pending, average weekly wage and compensation rate, status of settlement negotiations, Claimant's age, Claimant's length of employment, medical experts, status of litigation, Claimant's pre-injury title, mechanism of injury, the amount of outstanding medical expenses, the amount of potential credits (unemployment credit, short-term disability, long-term disability), whether Claimant is receiving/applied for Social Security Disability benefits and is a Medicare beneficiary, whether there is a 3rd party case, whether any Utilization Review Requests are outstanding, whether a resignation is required, and Claimant's litigation costs. Statements should be uploaded under the Mediation tab in WCAIS.

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? Two business days.

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? If so, how long until it is rescheduled?

A mandatory mediation will not be rescheduled. When the parties are ready, they should avail themselves to a voluntary mediation.

7. Are you willing to conduct more than one mandatory mediation session per Dispute? Yes.

8. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?

The day prior to the mediation.

9. What else should the parties know or do before the mediation?

Claimant's counsel should advise Employer's counsel of any outstanding medical balances, Medicare/SSD issues, and litigation costs prior to the mediation. Employer's counsel should advise Claimant's counsel if there is no settlement authority prior to the mediation.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations? Yes.

2. How should the parties request a Voluntary Mediation?

Email me directly at Kpochettin@pa.gov and I will provide dates. Once a date is confirmed, the parties should file a WCAIS request.

3. List the locations where you conduct in-person voluntary mediations: Philadelphia.

4. Will you conduct virtual voluntary mediations? If yes, for which WCOA Districts will you conduct them?

Yes. I will conduct them for any district.

5. Do you mediate Disputes assigned to you for hearing and decision? No.

6. Do you mediate Disputes in which one or both parties are unrepresented? If yes, describe any special procedures you have for such cases: Yes. I have no special procedures in this regard.

7. What factors will you consider in deciding whether to conduct a voluntary mediation virtually or in-person?

All voluntary mediations will be scheduled virtually by default. A specific request must be made for an in-person mediation.

8. What factors will you consider in deciding whether to conduct a virtual voluntary mediation by audio only or by audio with video?

Video participation is required. I will defer to counsel as to whether they want their client to attend or to have their client available by phone. Parties should utilize the Microsoft Teams link and only use the dial in number as a last resort.

9. Are you willing to allow counsel or a party to participate virtually in an in-person voluntary mediation? If so, under what circumstances?

No.

10. Do you require a Mediation Statement? Yes If yes:

a. What information do you require in that Statement? The same information as required for a mandatory mediation.

b. What documents, if any, must accompany the Statement? The same information as required for a mandatory mediation.

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

11. After you approve a Voluntary Mediation Request, how long until it is scheduled?

I try to accommodate the parties' requested timeframe for a voluntary mediation.

12. Are you willing to conduct more than one voluntary mediation session per Dispute? Yes

13. If the party wants to request cancellation or postponement of a voluntary mediation on a Dispute assigned to you, should they contact you or the mediating Judge?

For voluntary mediations, the parties should contact the mediating Judge.

14. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?

The parties should provide as much notice as possible, however, the voluntary mediation can be cancelled the day prior to the mediation.

15. What else should the parties know or do before the mediation?

Claimant's counsel should advise Employer's counsel of any outstanding medical balances, Medicare/SSD issues, and litigation costs prior to the mediation. Employer's counsel should advise Claimant's counsel if there is no settlement authority prior to the mediation.

REQUESTS/MISCELLANEOUS

1. How far in advance do you require Requests for continuances, changes in hearing times, and extensions to be uploaded into WCAIS?

The parties should provide as much notice as possible and should file a Request via WCAIS when the circumstances arise. These requests are granted on a case-by-case basis and are dependent on a number of different variables, such as prior continuance/extension requests by the same party in the same matter. Requests should be made via WCAIS at least two business days prior to the scheduled event. Requests for continuances need to contain sufficient information for me to determine whether a continuance is appropriate. Continuance requests must include the status of litigation, when the need for the continuance arose, why the continuance is needed, the opposing party's position regarding the request, and the length of time the requesting party is asking for the matter to be continued. Requests to extend the briefing schedule need to be made prior to the expiration of the briefing schedule. Requests should also conform with the WCJ rules.

2. Under what circumstances do you conduct off the record conference calls?

I do not conduct conference calls.

3. Under what conditions/circumstances do you accept e-mails from parties?

Emails will generally be accepted only for voluntary mediation requests. If I have initiated or otherwise requested the communication, an email will be accepted. All communication must be copied to opposing counsel.

4. Do you adhere strictly to the duration listed for a Hearing or Mediation?

For pre-trial and status hearings, there is a "call of the list" with several cases listed in 30-minute intervals. The status and pre-trial hearings will be scheduled at 9:00, 9:30, 10:00 and/or 10:30. I will not go over the 30-minute time frame listed for each separate "call of the list." C&R hearings and testimony hearings will be given a time certain. I will strictly adhere to the duration and timing listed for those hearings. The parties should note that all C&R and testimony hearings for the day are provided with the same TEAMS link. For mediations, I will go over the duration listed, if I do not have another mediation scheduled.

5. What is the best way to contact you in an emergency situation?

For a true emergency, please email me at Kpochettin@pa.gov or call my secretary.

6. What is your snow/emergency cancellation policy regarding in-person and virtual events (i.e., do you follow a specific school district closing schedule, etc.)?

Virtual events will be held regardless of weather-related closures.

For in-person events, if the Philadelphia School District has a delayed opening or is closed, any events are cancelled.