

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?

Typically, the first hearing on a Claimant's petition is scheduled for 30 minutes and Claimant is expected to testify, no more than 20 minutes on direct and 10 minutes on cross. On an Employer petition such as a Modification, Suspension or Termination Petition, the hearing is scheduled for 15 minutes and supersedeas exhibits will be accepted from both parties. Generally, there is no testimony taken. With all petitions, the Judge will set deadlines consistent with Special Rules of Administrative Practice and Procedure Before Workers' Compensation Judges (the "Rules") and Act 147. The Parties should have copies of all Bureau Documents available for submission into evidence or other relevant controlling documents such as prior decisions, supplemental agreements, etc.

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 are to comply with Sections 131.52 and 131.53 of the Rules. A first hearing filing and a responding party 45 day filing is expected. The Parties are to have available all Bureau documents for submission into the record.

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

Exhibits **Documents**

Further explanation:

See response for question 2 above.

- 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:

I expect to receive all documents, exhibits and affidavits consistent with 34 Pa. Code Sec. 131.43. I may permit the responding party a brief extension of time if necessary, to obtain medical records, reports, or affidavits and to present the same by mail or through WCAIS subsequent to the first hearing. Counsel for Claimant should present a written fee agreement at the first hearing in order to obtain interim approval of his/her counsel fee. Special supersedeas hearings will be conducted consistent with Section 413(a) of the Act and current case law concerning conduct of such hearings.

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

Further explanation:

See response to question 3(a) above.

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

I generally do not reconsider supersedeas once the Interlocutory Order is issued.

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

Further explanation:

N/A

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

Counsel must have a written fee agreement in the record at the time the supersedeas Interlocutory Order is issued.

- 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:

Other than the timing required pursuant to the Act for holding the first hearing, there are no other or different procedures.

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 conduct a modified one day trial procedure. There is typically a first hearing held that is listed for 15 minutes on Employer petitions and 30 minutes listed for Claimant petitions (see above answer to question 1). I will then list the dispute for one final hearing with all remaining fact testimony from both parties to be presented at that time. At the first hearing I provide the Parties with a Certificate of Readiness that is typically due two months before the final hearing. On this form the Parties are to list all witnesses to be presented in the case. The name of experts to be deposed and the date of the deposition is to be provided. The Parties are to list all fact witnesses AND the time needed to present these witness on the Certificate of Readiness. Failure to submit the Certificate of Readiness in a timely fashion will result in our office "guessing" how much time the Parties need to present their case and no additional time will be permitted. Further, failure to list fact witnesses will result in the testimony of those witnesses not otherwise identified being precluded. If there are additional petitions filed during the pendency of litigation, those petitions will be scheduled for a first hearing within the time required by the Act unless the parties advise otherwise. Whether or not these petitions will be consolidated with the previously filed petitions will be at the discretion of this Judge.

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

Further explanation:

I generally expect counsel to appear for scheduled hearings. However, I may consider participation by phone on a case-by-case basis if counsel provides a prior written request at least three (3) days in advance of the hearing. Should counsel upload such a request in WCAIS, the upload must be completed by 2:00 p.m. so that this Judge has an opportunity to review and respond to the request.

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

If a party fails to appear as scheduled for an Event such as a hearing, the party risks having a Decision and Order issued that is adverse. If a party fails to appear for a mandatory mediation where this Judge is the litigating Judge, the party risks the imposition of sanctions that are available to this Judge.

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:

See answer to question 1 for first hearing procedures and expectations for testimony. See also answer to question 4 for final hearing expectations.

9. Under what circumstances will you permit a party or witness (including an expert witness) to testify by deposition or by phone, rather than appear at the hearing?

I prefer all lay/fact witnesses, especially party witnesses, to appear live at a hearing for testimony. I will consider lay/fact witness depositions on a case-by-case basis. Expert witnesses are to testify 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?

Typically the moving Party is to proceed first with evidence in a dispute. Where there are cross petitions filed, the first Party to file generally is expected to proceed first with evidence and testimony unless the parties agree otherwise. This is typically discussed at the first hearing.

11. Do the parties need to upload the Bureau documents as exhibits or will they automatically be made Judge Exhibits? **Parties Upload** **Judge**

12. Do you require that counsel upload exhibits to WCAIS before or after the hearing? If before, what is the latest day before the hearing that they may be uploaded? **Before** **After**

Further explanation:

If Parties upload exhibits before a hearing, these exhibits should be uploaded no later than the day before the hearing. The Parties should inform the Judge at the time of the hearing that they have uploaded exhibits so that any objections and the admissibility of an exhibit can be addressed at that time.

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

Further explanation:

Although I will not require hard copies of exhibits to be submitted, if the Parties have hard copies available, I will accept them in addition to the WCAIS upload.

14. When will you rule on objections to exhibits?

I will rule on objections to exhibits when offered at a hearing. If additional exhibits are uploaded after the final hearing, a party may submit a written objection, which will be ruled upon in the Decision. Should there be objections to documents offered during a deposition, the Parties must preserve those objections in a separate writing in accordance with the Rules.

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 do not use telephone conferences to address discovery objections. Rather I will issue an Interlocutory Order with instructions. I generally do not attend depositions. Should there be objections during a deposition to a certain line of questioning, the objection should be made on the record, the witness is to answer, and the objection must be preserved in a separate writing in accordance with the Rules.

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

A written preservation of objections should be submitted at the time the deposition is submitted into the record. The due date for Proposed Findings of Fact is the absolute last day all evidence, including preservation of objections made during a deposition, will be received.

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:

However, this depends upon whether the Compromise and Release includes other injury dates that are not currently pending in litigation. If the parties want to resolve multiple injury dates, and there is not a petition for all such dates already pending in litigation, the Parties must file a separate petition for each injury date to be resolved. A separate Compromise and Release Agreement should be used for each injury date with consideration allocated to each Agreement.

- b. Do you require the parties to provide you with a draft of the Compromise and Release Agreement to review before the hearing? If so, how far in advance of the hearing do you need to receive it? **Yes** **No**

Further explanation:

N/A

- c. Should the parties upload the Compromise and Release Agreement, including the fee agreement and any other attachments, before or after the hearing?

Before **After**

Further explanation:

I expect a fully executed Compromise and Release Agreement as the document that will ultimately be uploaded as an Exhibit. This includes signatures by the parties as required by the Act. A signature of an attorney representing a party is not sufficient unless that attorney has a special POA for this purpose to bind that entity. The document should not be uploaded unless it is completely executed.

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

Further explanation:

Because these documents contain Social Security numbers, these documents will be marked and admitted as separate exhibits. Documents should be uploaded only if they are complete and fully executed.

- 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.

No other document should be uploaded unless it is specifically referenced in the Compromise and Release Agreement and is required 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 should always be redacted from the Compromise and Release Agreement. However, since the Act 109 documents are marked and admitted as a separate exhibit, the Social Security number should remain on these 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:

The Parties should be present and prepared to go on the record at the time scheduled for the hearing, even if there is an interpreter required.

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?

I will accept Stipulations filed through WCAIS or otherwise. The terms of 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, benefits terminated.

- 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.

Everything related to the Stipulation should be attached to the Stipulation as an exhibit and referenced in the text of the Stipulation as such.

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

Social Security numbers should not be referenced anywhere in the Stipulation or any of its attachments. The Act 109 documents will be marked and admitted as a separate exhibit.

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

Further explanation:

Even if the Parties have promised a Stipulation of Facts, this Judge may still list the matter for hearing until the Stipulation is actually received from the Parties.

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?

Briefs are typically due in about 60 days from the final hearing unless there are extenuating circumstances. The due date for the briefs and Proposed Findings is the last date this Judge will accept any evidence, e.g., litigation expenses, depositions, etc. Whether or not Proposed Findings and briefs are received by the due date, this Judge will begin writing the final decision the day after the due date.

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, Proposed Conclusions of Law, a Proposed Order, and a supporting brief that specifically sets forth the issues to be decided and legal argument. Support for the Proposed Finding of Fact must contain a specific cite to the record with deposition and hearing transcript references referred to by page and line(s). All references to the Act, governing regulations and case law must be properly cited.

Mandatory Mediations

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

WCOA, Lancaster, 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:

Although it is extremely helpful if all participants are present, at a minimum the attorneys are to attend along with the Claimant. On the Employer/carrier side, a person with ultimate authority to resolve a dispute must be available by phone during the entire period for which the mediation is scheduled.

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

If so:

a. What information do you require in that Statement?

The mediation statement should include the following: 1) the case name; 2) the date and time of the mediation; 3) the name of the Judge assigned to the mediation; 4) the name of the Judge assigned to the litigation; 5) the name of Claimant's counsel; 6) the name of defense counsel; 7) a list of pending petitions; 8) the date of injury; 9) the mechanism of injury; 10) the description of injury; 11) a brief summary of the treatment to date with the names of the primary health care providers; 12) the average weekly wage and the weekly compensation rate; 13) a brief summary of your position in litigation; 14) what past due benefits, if any, are in controversy; 15) whether the parties have had any discussions or negotiations regarding settlement and if so outline what progress has been made; 16) Whether you believe a negotiated settlement of the case is possible and set forth your proposal in order of importance outlining what components are negotiable and which are non-negotiable.

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

Whatever you believe is relevant to the mediation process.

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

I request that you submit mediation statements one week in advance of the scheduled mediation date.

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

Mediation dates are provided by the litigation Judge and there are a range of dates that the parties may pick that cover the timeline of litigation.

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 the litigating Judge, i.e., the Judge assigned to the dispute rather than the mediation 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?

Three days

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

Yes **No**

Further explanation:

The parties should have discussed mediation before the mediation date, i.e., demands should be made sufficiently in advance and authority should be obtained sufficiently in advance before the mediation date so that the parties can have meaningful discussions.

Voluntary Mediations:

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

Further explanation:

Although I am willing to conduct voluntary mediations, these will be conducted in the Lancaster, PA field office. I expect mediation statements in advance of such mediations.

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

WCOA, Lancaster, PA

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

Yes No

Further explanation:

N/A

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:

N/A

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:

See above

36. Do you require a Mediation Statement? Yes No

Further explanation:

See above

If so:

a. What information do you require in that Statement?

N/A

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

N/A

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

N/A

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

This depends upon availability in my schedule.

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?

With respect to a voluntary mediation, the parties should contact my office.

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 parties should contact our office three days in advance.

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

Yes **No**

Further explanation:

N/A

Requests/Miscellaneous:

41. What is your procedure regarding continuances, changes in hearing times and extensions, i.e., how far in advance do you require the Request be uploaded into WCAIS?

Requests should be uploaded in WCAIS. The parties should refer to and follow the Rules with respect to requests for continuances.

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

Further explanation:

I generally do not conduct conference calls. I prefer to have issues presented on the record.

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

Yes No

Further explanation:

Although I do accept faxes, the parties are not to email this Judge directly. The parties should utilize WCAIS for most if not all communications with respect to Requests.

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:

All hearings and mediations are scheduled for a specific time slot with other disputes scheduled either before or after your slot. As such, this Judge expects both counsel and the parties to be present and prepared to proceed at the assigned time. Failure to do so may limit the time you have to present your case or could result in the rescheduling of the dispute to another hearing date depending upon the circumstances. Unless there is fortuitously additional time in the hearing day schedule, it may be impossible to go over the allotted time scheduled for the hearing or mediation.

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

The Parties may contact our office by phone and speak with our office staff.

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

If the WCOA does not authorize closure of our office, I will generally hold scheduled hearings and mediations. However, the workday prior to an expected snow or weather event I strive to make a determination as to whether or not hearings or mediations should be cancelled and counsel for the parties will be contacted if it is determined that it is appropriate to cancel Events. We will also request that this information be posted to WCAIS.