

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?

First hearings on Claim and UEGF Claim Petitions will be a 10-minute pre-trial hearing conducted virtually. The allegations in the Petition(s) will be discussed. The manner of presentation of Claimant's testimony will be determined. First hearings on all other Petitions including, but not limited to, Reinstatement, Review, Termination, Modification, Suspension, Review of Utilization Review Determination, Approval of Compromise & Release Agreement, Challenge, and Fatal Claim will also be scheduled as virtual events. To the extent necessary, a trial schedule will be given. If appropriate, Supersedeas documents will be discussed. No testimony is anticipated at the first hearing on any of these Petitions but for those involving a Compromise & Release Agreement.

a. List any documents required at the first event:

This is Petition dependent. Generally, supersedeas exhibits would be expected at the first hearing on a Termination, Suspension, or Modification Petition. To the extent those exhibits are not available by the first hearing, 14 days is typically allotted to submit supersedeas exhibits post-hearing. Utilization Review Reports are required for this Judge to have jurisdiction over a Petition for Review of Utilization Review Determination. The parties would be wise to upload the same. Settlement documentation should be uploaded prior to any Compromise & Release hearing, preferably before the morning of the hearing. This Judge does not require first hearing filings.

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

The parties should make this determination considering whether they want this Judge to consider the document being uploaded as evidence.

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

This Judge utilizes a serial hearing format.

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

As indicated in the prior paragraph, this Judge uses the serial hearing format. The number of hearings needed and the general timeframe a case is open may fluctuate on a case-by-case basis. Both parties will be given a reasonable time to complete their evidence. This Judge will not indulge requests by counsel to accelerate the trial schedule to the detriment of the opposing party when there is no basis other than client wishes.

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

Generally, this Judge acknowledges any hearing that might involve testimony necessitating a credibility determination could warrant an in-person hearing. The parties wishes, current safety protocols, and appropriate

docket management will be considered. Further consideration will be given to whether this Judge needs to view a scar or whether a witness has special needs. The parties should be mindful, however, that this Judge views the record globally in rendering any final determination on the merits. How the words said and actions taken by a particular witness fit with the overall description of events matters significantly more to this Judge than the manner the testimony was delivered. Even so, to the extent there have been any curiosities in an individual's testimony since remote hearings began with regularity, this Judge has picked up on those no differently than I would in an in-person hearing. Any tactical advantage the parties hope to get by having their witness testify live before this specific Judge will be marginal at best.

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

Video connectivity is expected. Exceptions may be discussed on a case-by-case basis.

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

This Judge relists the matter for one more opportunity for the party to participate in a hearing. More than likely, especially in cases involving pro se Claimants, an interlocutory order will be generated advising of the missed hearing, repeating the nature of the litigation, advising of the next scheduled hearing, and warning failure to participate in the next hearing may lead to an adverse ruling. Should the party fail to participate in the next scheduled listing, this Judge will entertain any motions raised by the opposing party.

7. Do you have special procedures for psychological injury cases?

No.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

Generally, supersedeas hearings are 15 to 20-minute pre-trial hearings on Termination, Suspension, and Modification Petitions. Supersedeas evidence will be discussed. To the extent records are not available as of the date of the hearing, leave, typically 14 days, will be given to obtain such documents. This Judge will ascertain whether there is any fee agreement, whether Claimant's counsel is seeking approval of that fee in the supersedeas order, and whether the fee encompasses both wage loss and medical benefits, or wage loss only. Mediation dates will be offered.

a. Will testimony be heard?

Generally, no.

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

Yes. See above.

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

If a request is made, and new evidence is uploaded, it seems reconsideration of the supersedeas order would have to at least be entertained. Very likely, however, the matter would not be reconsidered until after a hearing occurs.

d. Do you generally use written orders for denials?

Yes

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

Assuming the fee agreement is for 20% or less worth of wage loss benefits and the fee agreement is in evidence, the sole requirement is to ask. If counsel is seeking 20% or less of any medical benefits in addition to wage loss, the matter may be deferred until Claimant is asked specifically about the fee agreement on the record. To the extent any objections are made, those would also have to be addressed.

f. Describe any other procedures for supersedeas hearings:

To the extent it needs to be said, be on time for the hearing. The time allotted for any hearing is given to sufficiently address all expected matters. Failure to start the hearing on time leads to an unnecessary time crunch.

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

N/A

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

As noted above, the manner of presentation of Claimant's testimony on a Claim or UEGF Claim Petition will be determined at the first hearing. To the extent testimony is required by any other lay witnesses for these Petitions, advance notice should be given. This Judge typically endeavors to get lay witnesses identified in the early stages of the litigation. For all other Petitions aside from those yielding compromise & release hearings, presentation of testimony will be discussed as the matter progresses through litigation. The parties should refrain from submitting a letter to this Judge the week before a 10 to 15-minute status hearing stating for the first time an intention to present a lay witness during the hearing. Barring unforeseen circumstances, that request will be denied.

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

Testimony concerning Compromise & Release Agreements will be virtual barring extraordinary circumstances. All other occasions for testimony will be decided on a case-by-case bases.

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

Once the manner a witness will testify is determined, the Judge would expect that plan to be carried out.

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? It is generally understood the parties will advise of a future witness during an initial hearing. Alternatively, the parties may advise of a future witness by letter. Once alerted of the need for witness' testimony, a hearing, if given, will be scheduled for that purpose. There is no time frame of notice per se. As noted above, however, the parties should refrain from submitting a letter to this Judge the week before a 10 to 15-minute status hearing stating for the first time an intention to present a lay witness during the hearing. Barring unforeseen circumstances, that request will be denied.

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

The party who filed the Petition(s) first goes first on medical unless the parties agree otherwise.

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

This Judge uploads Bureau documents believed to be relevant by this Judge as exhibits in preparation for a first hearing. Should the parties do so in advance, however, that would be appreciated.

- 7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? Before. If before, how far in advance of the hearing must they be uploaded?** There is no time frame per se. Professional courtesy would suggest, however, the documents be uploaded sufficiently in advance to give this Judge and opposing counsel sufficient time to review the exhibits.

- 8. When will you rule on objections to exhibits?**

Either during the hearing, or, following consideration of briefs on more complex evidentiary issues.

- 9. What is your procedure for handling discovery disputes?**

Ideally, counsel shall make every effort to avoid these disputes. To the extent necessary, this Judge will grant relief considering the Special Rules of Administrative Practice and Procedure Before Workers' Compensation Judges.

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

These should be uploaded in advance of the final hearing. This Judge may, per his discretion, give leave to file the same pending briefs.

COMPROMISE & RELEASES (C&Rs)

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

As per below-

- 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?**

This parties shall file a Petition to Seek Approval of a Compromise & Release Agreement.

- 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?**

There is no requirement for a draft C&R Agreement prior to the hearing. A FINAL copy of the C&R Agreement, however, should be uploaded in advance of the hearing. The Agreement should be uploaded 24 hours in advance of the hearing. As this Judge will conduct C&R hearings virtually, time is needed to review the documents in advance of 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?**

A final copy of the C&R Agreement should be uploaded in advance of the hearing. The Agreement should be uploaded 24 hours in advance of the hearing. As this Judge will conduct C&R hearings virtually, time is needed to review the documents in advance of the hearing. The parties need only upload a redacted copy of the settlement removing any reference to Claimant's social security number.

- d. Should child support documents be uploaded as a separate exhibit?**

No. Everything should be uploaded as one exhibit.

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

Yes, as stated above.

f. Will you sign bench orders?

No.

g. Describe any other procedures you have for C&R Agreements:

To the extent the parties wish to leave open a specific issue for this Judge to decide following approval of a C&R Agreement, they should be careful to follow proper procedure as set forth in various appellate court decisions. The parties should specify the issue remaining open for decision in the settlement documentation. They should also leave a specific portion of benefits unresolved by the lump sum paid in the settlement. Otherwise, this Judge may be inclined to find the issue moot.

STIPULATIONS RESOLVING DISPUTES

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

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

2. Should the fee agreement be part of the stipulation or separate exhibit?

It can be, but does not need to be attached to the stipulation. The fee agreement, however, must be in evidence in some manner.

3. Should child support documents be uploaded as a separate exhibit?

Either way. It does not need to be attached to the stipulation. Act 109 documents, if required, must, however, be in evidence in some manner.

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

This is left to the parties' discretion.

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

If you want something specifically included as part of the decision approving the stipulation, it should be included as part of that exhibit.

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

Please redact before uploading. If it is made part of the stipulation and it is not redacted, my office will contact you to do so delaying approval of the stipulation.

7. Describe any other procedures you have for stipulations:

BRIEFS AND PROPOSED FINDINGS

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

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

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

I will set the briefing schedule at the final hearing. Generally, the moving party has 45 days to submit a post-trial submission after the close of the record. The responding party typically has 15 days thereafter to submit a post-trial submission. At the conclusion of the briefing schedule, the case will be put in line for decision. Late briefs will be considered absent an objection by the opposing party. This Judge, however, will not chase after briefs. A decision will be issued in the absence of a brief if the deadline to submit one passed and the case is at the front of the queue.

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

None per se. Correct citation to relevant legal authority in complex matters is appreciated.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

This Judge is based out of Harrisburg.

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

Directives from management. Virtual mediations are the default method for this Judge.

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

It does not matter to this Judge whether the parties participate in a virtual mandatory mediation by audio only or by video. It is more important to me that there is a clear connection no matter what option is chosen. Further, this Judge is more concerned Claimant is an active participant in the mediation. It is too common an occurrence this Judge learns Claimant "is available" but not present and/or participating in the mediation once we begin. If this Judge is not going to speak to Claimant, then the value of my involvement in the process is questionable. It is further questionable whether my concerns for Claimant's side of the case are being accurately relayed, if at all. Claimant is the one with the least amount of experience in the workers' compensation system. They have the most to gain by being engaged in the process.

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

Yes, to the extent an in-person mediation would be scheduled. I am substance over form.

5. Do you require a Mediation Statement? No. If yes: (or, if one is filed regardless)

a. What information do you require in that Statement?

It will be helpful at the mediation if, in a matter where liability is not previously established, Claimant can present medical billing statements he or she wishes to have paid as part of settlement. Moreover, Claimant should be able to definitively provide information concerning Medicare status. Claimant's counsel should be aware of the total amount of litigation costs generated through the date of the mediation. Employer, if applicable, shall have relevant information or be able to reach someone during the mediation concerning union issues or vested benefits.

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

None, specifically. This feels like a good place to state that mediation statements should be no more than two pages. This Judge does not need a regurgitation of all of counsel's status reports to their client as a mediation statement. Moreover, this Judge does not need to be used as a vehicle for billing purposes. Please provide only a brief synopsis of the strengths and weaknesses of your case. It is this information alone that will be used to challenge the opposing party on the value they are assigning to their case.

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

If you want me to read it, you will probably want to get it to me a reasonable time ahead of the mediation. Keep in mind this Judge usually has multiple mediations scheduled for any given mediation day. Uploading the mediation statement 20 minutes ahead of time probably is going to lead to it not being read.

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? This depends on how the parties phrase their WCAIS request. If so, how long until it is rescheduled? Again, this is contingent on the terminology used in the WCAIS request. It is also based on schedule availability.

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

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

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

There is no cut-off point, per se. The only caveat is the parties should not assume the mediation will be cancelled simply because a request is filed. If the request is filed with me as the mediating Judge, and the request does not suggest a mere postponement, I will double check with the assigned Judge to make sure he or she is agreeable.

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

This Judge will let the parties negotiate as they see fit. This Judge will participate in the mediation for however long it goes. Nonetheless, it would be appreciated if the parties are cognizant that after the initial demand and counter-offer, making revised demands or counter offers that have no hope of being accepted only serves to prolong the process. This Judge needs three times to speak to each party to really get a feel for the evidence and convey realistic expectations to each side. Anything beyond that probably involves some level of unnecessary fluff.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes.

2. How should the parties request a Voluntary Mediation?

Make a request through WCAIS. The parties are free to contact my assistant in advance of the request to identify availability.

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

Harrisburg, to the extent an in-person mediation would be scheduled. This Judge can also do them virtually for those outside the area.

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

Yes, as stated above. Anyone who wants one can have one depending on availability. To the extent voluntary mediation volume might negatively impact this Judge's availability for mandatory mediations, this Judge may not be able to honor all requests.

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:

I mediate cases assigned to me whether by another Judge or by approving a request. Schedule availability remains the only concern.

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

Directives from management. Virtual mediations are the default method for this Judge.

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

It does not matter to this Judge whether the parties participate in a virtual mandatory mediation by audio only or by video. It is more important to me that there is a clear connection no matter what option is chosen. Further, this Judge is more concerned Claimant is an active participant in the mediation. It is too common an occurrence this Judge learns Claimant "is available" but not present and/or participating in the mediation once we begin. If this Judge is not going to speak to Claimant, then the value of my involvement in the process is questionable. It is further questionable whether my concerns for Claimant's side of the case are being accurately relayed, if at all. Claimant is the one with the least amount of experience in the workers' compensation system. They have the most to gain by being engaged in the process.

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

Yes, to the extent an in-person mediation would be scheduled. I am substance over form.

10. Do you require a Mediation Statement? No. If yes: (or, if one is filed anyway)

a. What information do you require in that Statement?

It will be helpful at the mediation if, in a matter where liability is not previously established, Claimant can present medical billing statements he or she wishes to have paid as part of settlement. Moreover, Claimant should be able to definitively provide information concerning Medicare status. Claimant's counsel should be aware of the total amount of litigation costs generated through the date of the mediation. Employer, if applicable, shall have relevant information or be able to reach someone during the mediation concerning union issues or vested benefits.

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

None, specifically. This feels like a good place to state that mediation statements should be no more than two pages. This Judge does not need a regurgitation of all of counsel's status reports to their client as a mediation statement. Moreover, this Judge does not need to be used as a vehicle for billing purposes. Please provide only a brief synopsis of the strengths and weaknesses of your case. It is this information alone that will be used to challenge the opposing party on the value they are assigning to their case.

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

If you want me to read it, you will probably want to get it to me a reasonable time ahead of the mediation. Keep in mind this Judge usually has multiple mediations scheduled for any given mediation day. Uploading the mediation statement 20 minutes ahead of time probably is going to lead to it not being read.

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

It is based on the availability in my schedule.

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

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

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?

It does not matter. A voluntary mediation is a voluntary endeavor. Denying a cancellation or postponement request turns it into something not voluntary, at least from this Judge's perspective.

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

There is no time cut-off, per se.

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

This Judge will let the parties negotiate as they see fit. This Judge will participate in the mediation for however long it goes. Nonetheless, it would be appreciated if the parties are cognizant that after the initial demand and counter-offer, making revised demands or counter offers that have no hope of being accepted only serves to prolong the process. This Judge needs three times to speak to each party to really get a feel for the evidence and convey realistic expectations to each side. Anything beyond that probably involves some level of unnecessary fluff.

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

Act with reasonable diligence.

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

Generally, I am willing to entertain requests for off the record conference calls. This presumes the request for a conference call is to handle issues concerning the litigation of the claim or other legal matters.

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

The parties should first determine whether their communication is more appropriately made through WCAIS. In most cases, the answer will be yes.

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

For hearing times, yes, as much as possible. For mediations, no.

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

If there is an actual emergency, e-mail this Judge or my assistant. Alternatively, call my assistant.

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.)?

If there is snow in forecast, it is anticipated all virtual hearings occur as planned. It is further anticipated cases originally scheduled to be in-person would convert to virtual. Parties should monitor their e-mail for Teams invites in such a situation. This is subject to management directives.