

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?

For Claim Petitions & Reinstatement Petitions the first hearing will be scheduled for 30 minutes for Claimant's testimony. For all other Petitions (except an Employee Challenge) a ten minute pre-trial will be scheduled. An Employee Challenge will be scheduled for ten minutes for brief testimony from the Claimant.

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:

No particular filings or documents are required. First Hearing Filings may be provided, but are not required. Counsel should be prepared to review documents they wish to make part of the record as exhibits at the first hearing or pre-trial (for example, supersedeas evidence, contingent fee agreements, etc...).

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

Exhibits **Documents**

Further explanation:

n/a

- b. Should first hearing filings be uploaded before or after the first hearing?

Before **After**

Further explanation:

NO PREFERENCE. If, however, a first hearing filing is being provided, it should be uploaded contemporaneously to the first hearing or pre-trial – either shortly before or after the hearing or pre-trial.

3. What are your procedures for supersedeas hearings?

- a. Will testimony be heard? **Yes** **No**

Further explanation:

n/a

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

Further explanation:

While additional time generally is granted to obtain medical evidence, all such requests for additional time for medical or other evidence are determined on a case by case basis.

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

Supersedeas will be reconsidered upon request, coupled with additional evidence offered in support of or in opposition to the supersedeas.

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

Further explanation:

The exception to the issuance of a written supersedeas denial order is when no indemnity benefits are being paid.

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

Request for an interim counsel fee coupled with a copy of the contingent fee agreement and representation that the request for interim fees has (or will be) reviewed with the Claimant.

- 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:

No different procedures are used for Terminations based on Physicians' Affidavit. For Employee Challenges, however, brief testimony from the Claimant will be permitted. (See information in Question #1 above)

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.

At the first hearing (either for testimony or as a pre-trial) a trial schedule including reference to the Act's mandatory mediation requirement, and providing a final hearing date, time, and amount of time will be stated. Ideally, a first hearing or pre-trial and a final hearing should constitute all the hearings necessary for a dispute. Requests for an additional hearing, either prior to or after the scheduled final hearing, will be considered on a case by case basis.

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

Further explanation:

Counsel are generally expected to appear in person for all hearings, unless otherwise advised. If, however, counsel find travel to the hearing site difficult, they should request permission to appear by telephone as soon as it is determined necessary to do so. Ruling on the request will be made on a case by case basis.

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

For hearings involving pro se Claimants, if the Claimant fails to appear an interlocutory order is circulated directing Claimant to respond by a date certain and advising if he/she will either prosecute or present a defense to the pending petition(s). Should the Claimant fail to respond as directed by the interlocutory order, a dismissal of the the petition or a decision based on the evidence presented by Defendant will be circulated.

Hearings where counsel for the parties appear but a party does not will be handled on a case by case basis.

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:

Notice of witnesses should be provided in accordance with the Special Rules.

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?

Any party or witness may testify by deposition so long as all counsel agree to such testimony. Nevertheless, where credibility is a central issue for the party's or witness's testimony, the strong preference is for that party or witness to present his or her testimony in person at a hearing.

Appearances by telephone will be considered on a case by case basis.

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

Presentation of medical evidence on cross petitions is decided on a case by case basis.

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

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

Further explanation:

NO PREFERENCE beyond the offering party ensuring the exhibit is uploaded close in time to the hearing during which the exhibit is referenced.

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

Further explanation:

n/a

14. When will you rule on objections to exhibits?

Rulings are done on a case by case basis.

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

Telephone conferences or hearings

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

Preservations of deposition objections may be filed contemporaneously with letter briefs, but should be uploaded as separate exhibit in WCAIS.

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:

n/a

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:

Parties may upload a duplicate original C&R Agreement, with a copy of the fee agreement if applicable, only after the hearing for its approval. As a duplicate original C&R Agreement, it must contain all required signatures, and any initialled pen & ink changes made in the document at the time of the hearing itself.

Regardless of uploading by counsel, a paper duplicate original C&R Agreement should be provided at the hearing for its approval.

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

Further explanation:

n/a

- 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.

The fee agreement, if applicable, shall be included as part of the C&R Agreement. All other exhibits offered during the C&R hearing should be uploaded as separate exhibits, and designated as directed at the hearing. For example, if evidence of litigation costs and a Waiver of Appeal are offered during the C&R hearing and collectively made part of the record as one exhibit, they should be uploaded together as a single exhibit in WCAIS.

Regardless of uploading by counsel, a paper copy of all exhibits should be provided at the hearing for approval of the C&R Agreement.

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

Insofar as the C&R Agreement will be circulated with the decision, the social security number and other confidential information should be redacted prior to the C&R Agreement being uploaded into WCAIS. The Act 109 documents will not be circulated with the decision, but confidential information may be redacted when they are uploaded into WCAIS.

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

Further explanation:

n/a

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

Further explanation:

n/a

18. Please provide the following information regarding Stipulations resolving Disputes:

- a. What are your usual procedures regarding the submission, review, and adoption of such Stipulations?

Stipulations may be submitted by uploading the same into WCAIS as an exhibit. Stipulations may also be submitted via First Class U.S. mail, or at a hearing. All Stipulations will be reviewed. After review they will either be adopted as findings of fact, or, if a difficulty is noted with the Stipulation, counsel for the parties will be contacted and the Stipulation reviewed.

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

Further explanation:

If, as part of the Stipulation, the parties agree that counsel fees are to be paid, the fee agreement should be attached to the Stipulation itself. If the Stipulation is being uploaded into WCAIS, the fee agreement should be uploaded as part of the Stipulation, and not as a separate exhibit.

- 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.

Other exhibits may be offered with the Stipulation as the parties or their counsel deem appropriate. The preference, however, is that they be uploaded as a separate exhibit, with reference to them in the Stipulation that indicates they are being made part of the record as separate exhibits.

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

Insofar as the Stipulation will be circulated with the order approving it, the social security number and other confidential information should be redacted prior to the Stipulation being uploaded into WCAIS. The Act 109 documents will not be circulated with the order, but confidential information may be redacted when they are uploaded into WCAIS.

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

Further explanation:

n/a

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:

At the last scheduled hearing (the "final" hearing) for the dispute, the parties will be provided with a closing schedule. This schedule will consist of the evidentiary record closing date, and the due date for letter briefs. All evidence material to the disposition of the dispute will be expected to be uploaded into WCAIS by the close of business on the stated evidentiary record closing date. Evidence that is not uploaded by the evidentiary record closing date will not be made part of the record.

Evidence not material to the disposition of the dispute (evidence such as Act 109 documents, litigation costs, quantum meruit statements) may be submitted at the time the letter brief is filed, but must be uploaded as separate exhibits.

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?

(See response to Question #19)

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

A one to three page letter brief is all that is required. The letter brief should address all of the evidence and issues relevant to the resolution of dispute. Proposed Findings & Conclusions are not required, but may be submitted in addition to the required letter brief.

Mandatory Mediations

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

Harrisburg & the Chambersburg hearing site

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:

While parties are not required to be present, the strong preference is for counsel and at least the Claimant to be present for the mediation session, and for an adjustor and/or an employer representative with authority to be available by telephone.

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

If so:

a. What information do you require in that Statement?

NO MEDIATION STATEMENT IS REQUIRED. The participants, however, should know: (1) the Average Weekly Wage (AWW) and compensation rate (or, if in dispute, their respective proposals for the AWW and compensation rate), (2) whether a demand or offer has been communicated and, if so, the amounts communicated, (3) an estimate of medical expenses incurred during the previous six months, (4) whether surgery is scheduled or proposed, and (5) whether Medicare/Medicaid issues exist.

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

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

Estimated at 25 to 35 days

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

Further explanation:

For Mandatory Mediations, only one scheduled mediation will be conducted. Should, however, the parties request an additional mediation session through the adjudicating judge, and the adjudicating judge agrees that an additional session would be beneficial, an additional session will be scheduled.

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 requesting party may contact either my office or the mediating judge's 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?

Absent an emergency situation, 5 business days notice is requested.

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

Yes No

Further explanation:

n/a

Voluntary Mediations:

30. Do you conduct Voluntary Mediations? Yes No

Further explanation:

n/a

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

For voluntary mediations, Harrisburg & the Chambersburg hearing site – other offices may be considered upon request.

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

Yes No

Further explanation:

All parties to the dispute assigned to me for hearings and a decision must first agree, either on the record at a hearing, or in writing, or via a statement filed in WCAIS as correspondence, that I may serve as their mediating judge.

33. Are you willing to mediate Disputes in which one or both parties are not represented by counsel? If so, do you have any special procedures? Yes No

Further explanation:

I would consider and/or set any special requirements on a case by case basis.

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:

See, however, the requirement set forth in Question #32 – Further explanation.

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:

While parties are not required to be present, the strong preference is for counsel and at least the Claimant to be present for the mediation session, and for an adjustor and/or an employer representative with authority to be available by telephone.

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

Further explanation:

SEE, HOWEVER, RESPONSE TO QUESTION #25.a.

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?

Estimated at 25 to 35 days

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

Further explanation:

Additional sessions to be decided on a case by case basis.

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?

See response to Question #28.a.

- 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 response to Question #28.b.

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?

Absent an emergency situation, 5 business days notice is requested.

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

Further explanation:

Conference calls are used on a case by case basis.

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

Yes No

Further explanation:

WCAIS should be considered the preferred method for communication. Should the communicating party, however, not have access to WCAIS, or should the situation be one of an emergency nature, faxes and e-mails may be used as either an alternative or supplemental method of communication.

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:

n/a

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

Telephone, fax, and e-mail, with follow up communication via WCAIS (should the communicating party have access to the same).

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

Liberal grant of continuances of hearings for snow / emergency situations.