

JUDGE'S PROCEDURAL RULES AND POLICIES

Revised 12/02/2022

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?

Cases in which live testimony might be required are listed for Pre-Trial. Cases which usually can be conducted virtually are listed for thirty minutes. The moving party will present testimony and exhibits in support of its case. The responding party will have the opportunity to question the claimant and present exhibits. Exceptions to this rule are: A vocational expert will ordinarily testify by deposition. The Judge's office must be notified of any need for additional hearing time when the petition is assigned to the Judge.

a. List any documents required at the first event:

No first hearing filings or documents are required. Counsel must be prepared to state the client's position on the issues. Counsel may upload Bureau Documents.

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

First hearing filings shall be uploaded as Letters to the Judge. Bureau Documents shall be uploaded as Exhibits.

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

Serial

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

Yes The hearing format may be changed upon the request of all parties.

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

Ordinarily a party will advise that live testimony is required. If there is an objection, the Judge will consider whether virtual testimony will be sufficient.

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

Parties should ordinarily participate by video. If a party is unable to participate by video, a determination will be made whether audio will be sufficient, or the matter must be rescheduled.

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

If a moving party fails to appear at a hearing without excuse, the responding party may move for dismissal. The motion will ordinarily be granted. If a responding party fails to appear at a hearing without excuse, the moving party may offer evidence calculated to meet the moving party's burden. The moving party may rest and move to close the record. The motion will ordinarily be granted. If the moving party cannot rest, a final hearing will be scheduled to assure the responding party has an opportunity to respond to interpresented evidence.

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

No

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

Testimony of the Claimant and exhibits are expected at a hearing when supersedeas is at issue. Supersedeas is ruled on by written order circulated immediately after the hearing.

a. Will testimony be heard?

Yes

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

Yes. Upon request of a party, I will diary the file to rule on supersedeas on the fourteenth day (or the seventh day on a special supersedeas request).

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

Reconsideration of supersedeas may only be had after a hearing as provided in Section 131.41(a) of the Special Rules. 34 Pa. Code §131.41(a).

d. Do you generally use written orders for denials?

Yes

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

The fee agreement must be uploaded to WCAIS. The request for interim fee approval may be made by the letter to judge function in WCAIS, or on the record at a hearing. When a fee is approved, an interim order approving a fee will be circulated.

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?

A hearing is scheduled for the Claimant's testimony. The scheduling order at the conclusion of the hearing will provide for the presentation of additional lay witness testimony. The scheduling order will provide the time frame for notice of additional lay witnesses.

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

The decision will be made at the pre-trial.

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

N/A

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? The scheduling order at the conclusion of the pre-trial or first hearing will provide for the presentation of additional lay witness testimony. The order will provide the time frame for notice of additional lay witnesses.

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

The parties should come to the first hearing prepared to discuss the order of the evidence. A scheduling order will be entered.

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

Parties may upload Bureau and WCOA documents. The Judge may upload Bureau and WCOA documents as Judge Exhibits.

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? Exhibits should be uploaded at least three business days prior to a hearing.

8. When will you rule on objections to exhibits?

Objections to exhibits made on the record will be ruled upon on the record unless briefs are required. Objections to exhibits made between hearings will be ruled upon at the next hearing. An objection made between the final hearing and decision and a response thereto should be made by correspondence uploaded as an exhibit.

9. What is your procedure for handling discovery disputes?

Microsoft Teams meetings are preferred.

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

Written preservations of deposition objections and a response thereto should be made by correspondence uploaded as an exhibit before the close of the record.

COMPROMISE & RELEASES (C&Rs)

1. Describe your procedures regarding the review of C&R 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 C&R Agreement?**

Amendments are allowed.

- 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?**

A draft of the Compromise and Release Agreement should be provided for review at least three business days prior to the hearing. Upload as a Letter to the Judge or if fully executed, as an exhibit. Also upload a redacted fully executed copy with Fee Agreement attached.

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

Yes, but the Act 109 documents should not be attached.

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

Yes

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

An unredacted Compromise and Release Agreement, a redacted Compromise and Release Agreement with Fee Agreement attached and an unredacted Act 109 documents exhibit must be uploaded.

- f. Will you sign bench orders?**

Yes

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

N/A

STIPULATIONS RESOLVING DISPUTES

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

Stipulations resolving disputes should be uploaded as an exhibit. A decision will issue.

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

Separate Exhibit

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

Separate Exhibit

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

All other exhibits should be uploaded as separate exhibits

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

Separate Exhibits

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

The first five digits of the social security number should be redacted before the document is uploaded. If other confidential information is redacted before a document is uploaded, the document without redaction must be uploaded as a Letter to the WCJ.

7. Describe any other procedures you have for stipulations:

N/A

BRIEFS AND PROPOSED FINDINGS

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

WCAIS Submission

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

A typical briefing schedule provides a moving party's brief is due in twenty days and a responding party's brief is due in thirty days. After thirty days a decision may be issued without receipt of a party's brief.

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

A letter memorandum is preferred. Identify facts (with citations to the record), issues, argument (with citations to statutory and case law), and a statement of the relief requested, including counsel fees, medical expense reimbursement and costs of litigation.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

Altoona, Clearfield, State College and Chambersburg.

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

Mandatory Mediations will be scheduled virtually. In-person mediations may be requested.

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

Parties should ordinarily participate by video. If a party is unable to participate by video, a determination will be made whether audio will be sufficient, or the matter must be rescheduled.

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.

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

a. What information do you require in that Statement?

The mediation statement form is sent with the mediation notice. A mediation statement form may also be requested from the WCJ's office.

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?

The mediation statement and attachments, if any, should be submitted at least three business days prior to the mediation.

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? It may be rescheduled upon request at the time of the postponement or otherwise in the litigating Judge's discretion. If so, how long until it is rescheduled? 30 to 60 days

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?

Absent an emergency situation, a request for cancellation or postponement of a mediation must be made ten days in advance.

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

N/A

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes

2. How should the parties request a Voluntary Mediation?

By Voluntary Mediation request in WCAIS

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

Altoona, Clearfield, State College, Chambersburg and other offices upon request

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

Yes, for Western and Central District

5. Do you mediate Disputes assigned to you for hearing and decision?

The parties' joint request for a voluntary mediation in a case assigned to me for hearing and decision may be submitted in WCAIS

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, no special procedures.

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

Mandatory Mediations will be scheduled virtually. In-person mediations may be requested.

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

Parties should ordinarily participate by video. If a party is unable to participate by video, a determination will be made whether audio will be sufficient, or the matter must be rescheduled.

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

Yes.

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

a. What information do you require in that Statement?

The mediation statement form is sent with the mediation notice. A mediation statement form may also be requested from the WCJ's office.

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?

The mediation statement and attachments, if any, should be submitted at least three business days prior to the mediation.

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

30 to 60 days

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

Yes

12. 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?

I am the mediating Judge in a voluntary mediation on a dispute assigned to me. Any mediation by another Judge is considered a mandatory mediation.

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

Absent an emergency situation, a request for cancellation or postponement of a mediation must be made ten days in advance.

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

N/A

REQUESTS/MISCELLANEOUS

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

A request should be made at least ten days in advance and must include: a) A statement of the position of counsel of record and any unrepresented parties pursuant to §131.13(e) of the special rules; b) A statement of the reasons why the postponement is requested; and c) A statement of the circumstances that occurred within ten days of the hearing date if §131.13(f) of the special rules applies.

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

I conduct off the record Microsoft Teams meetings to resolve discovery disputes and/or to address scheduling orders.

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

All written communication should be conducted through WCAIS. E-mail is appropriate only in exceptional or last minute circumstances. Always copy opposing counsel or the unrepresented Claimant on e-mail communications.

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

Yes. The duration listed for a hearing or mediation may be exceeded only when the schedule permits.

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

Contact my office. My staff will have a number where I can be reached.

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.)?

Office closings and cancellations will be posted to WCAIS. The Altoona location follows the [Penn State Altoona Campus](#), the State College location follows the [Penn State University Park Campus](#)

and the Clearfield location follows the [Penn State DuBois Campus](#). Refer to [Judge Kutz](#) or [Judge Allen](#) Questionnaire's for Chambersburg information.