

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? At the first hearing, the following shall occur:
 - (a) The moving party shall file a First Hearing Filing on the prescribed form, setting forth the identity of all witnesses it intends to call and the dates of any scheduled trial depositions. (PLEASE PUT LINK HERE FOR: Wayne S. Fegley Form – FH Moving Party Claimant Filing 2015 and Wayne S. Fegley Form – FH Moving Party Employer Filing 2015)
 - (b) If the moving party has not already done so, the moving party shall provide the items and information referred to in Rule 131.61 of the Rules to the responding party.
 - (c) The parties shall be assigned a date for final hearing. The time limits set forth in Rules 131.52 and 131.53 will be strictly enforced.
 - (d) On a claimant's Petition, or any Petition to Review Utilization Review Determination, the claimant shall testify on direct and cross-examination. Except in extraordinarily complex cases, the testimony of the claimant on direct examination shall be limited to twenty (20) minutes, and cross-examination of the claimant shall be limited to ten (10) minutes. At any time during the course of the testimony, the WCJ may inform the parties that the claimant may give no further testimony at the first hearing, and that they shall complete the testimony of the claimant by deposition.
 - (e) On any employer/carrier's Petition other than a Petition to Review Utilization Review

Determination, the employer/carrier may call the claimant as of cross-examination, or in the alternative, may call one (1) witness on its behalf, if the identity of that witness has been disclosed to claimant's counsel, or directly to the claimant if the claimant is unrepresented by counsel, and all appropriate statements, records, or documents relating to that witness' testimony have been received by claimant's counsel, or by the claimant, if unrepresented, at least fifteen (15) calendar days prior to the first hearing. The testimony of the claimant as of cross-examination, or the direct testimony of any defense witness, shall be limited to ten (10) minutes at the time of the first hearing. Cross-examination of a defense witness, or any direct examination of the claimant, shall be limited to five (5) minutes.

(f) If supersedeas is requested, the parties shall present their documents and exhibits with regard thereto at the first hearing. All documents and exhibits offered for this purpose shall, if admitted, be admitted solely for the purpose of deciding the employer/carrier's request for supersedeas. Those documents and exhibits shall not be admitted into evidence on the merits of the case-in-chief, unless they are offered again for that purpose and are admitted pursuant to the applicable rules of evidence.

(g) The parties shall complete a Certificate of Readiness for Final Hearing (PLEASE PUT LINK HERE FOR: Wayne S. Fegley Form – Certificate of Readiness 2015) and returned to the WCJ no later than forty-five (45) days prior to the date of the final hearing.

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:

First Hearing Filing

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

Exhibits **Documents**

Further explanation:

[Click here to enter text.](#)

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

Before **After**

Further explanation:

[Click here to enter text.](#)

3. What are your procedures for supersedeas hearings?

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

Further explanation:

See instructions above. I do not normally take testimony at supersedeas hearings. However, if the identity of Defendant's witness and all appropriate statements, records, or documents relating to the witness' testimony have been received by the opposing party at least fifteen calendar days prior to the first hearing, I will allow 10 minutes of direct for a single defense witness and five minutes of cross-examination (time permitting).

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

Further explanation:

I will consider reasonable requests for additional time to submit supersedeas evidence.

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

Upon receipt of additional, relevant evidence and a written request.

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

Further explanation:

NA

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

I will consider approving same, if the fee agreement is offered into evidence and the request is made at a hearing in which Claimant is present.

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

Further explanation:

[Click here to enter text.](#)

- g. Do you have different procedures for special supersedeas hearings? If so, please describe them? **Yes** **No**

Further explanation:

At a special supersedeas hearing conducted pursuant to § 413(a.1), § 413(c)(1), or § 413(d)(1) of the Act, any party may present the testimony of the claimant, or of one other witness, unless extraordinary circumstances require additional witnesses on behalf of that party. Prior to the commencement of the testimony, or at any time during the testimony, the WCJ may inform the parties that any subsequent testimony will not be permitted, and that an affidavit may be submitted for supersedeas purposes. The WCJ will consider all relevant evidence submitted in conformity with § 413(a.1) of the Act in ruling on the employer/carrier's request for supersedeas or on the claimant's challenge.

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.

One-day/one-hearing format: At the first hearing the parties shall be assigned a date for final hearing. Within forty-five (45) days following the first hearing, the following shall occur:

(a) The responding party shall file its Responding Party - 45 Day Filing on the prescribed form, setting forth the identity of all witnesses it intends to call at the final hearing and the dates of its trial depositions. (PLEASE PUT LINK HERE FOR: Wayne S. Fegley Form – Responding Party 45 Day Filing 2015)

(b) If the responding party has not already done so, the responding party shall provide all items and information referred to in Rule 131.61 of the Rules to the moving party.

(c) If the employer/carrier desires a medical examination of the claimant with a physician or other health care provider, the employer/carrier shall schedule and complete the same within forty-five (45) days following the first hearing.

Within twenty (20) days following the submission of either the First Hearing Filing or the Responding Party - 45 Day Filing, any party may submit a Motion to Supplement its filing based upon facts or circumstances which occurred subsequent to the preparation of its initial filing. If a Motion to Supplement is submitted, the other party or parties shall have twenty (20) days within which to file any objections to such Motion. If no objection is received by the WCJ within twenty (20) days after the filing of the Motion to Supplement, it shall be presumed that the other party or parties have no objection to the Motion to Supplement, and the Motion will be deemed granted and the filing amended.

Witnesses not identified in the First Hearing Filing, the Responding Party - 45 Day Filing, or any accepted supplement thereto, will not be permitted to testify at the final hearing or by deposition, unless extraordinary circumstances require an exception to this rule. Additionally, generic descriptions of witnesses, such as "representatives of the employer," or "other witnesses identified during the course of litigation," will not be considered as acceptable identifications of witnesses, and the use of such descriptions may lead to the preclusion of the testimony of any witnesses not specifically identified in a First Hearing Filing, a Responding Party - 45 Day Filing, or a supplement thereto.

No later than forty-five (45) days prior to the date of the final hearing, all parties shall complete and

file their Certificate of Readiness for Final Hearing.

At the time of the final hearing, the following shall occur:

(a) The parties shall be prepared to present all evidence by way of live testimony, deposition testimony, or exhibits. The parties are directed to have all potential witnesses available to testify. On a claimant's Petition, the claimant shall be permitted to testify with regard to matters not covered at the first hearing, or in a subsequent trial deposition of the claimant, and shall be permitted to testify in rebuttal to any other testimony or evidence presented in the case.

(b) In the event that the claimant is seeking payment of any medical bills or expenses, the claimant shall have assembled any such medical bills for submission as one exhibit, which exhibit shall include a cover sheet indicating the name of each health care provider, the dates of service/treatment/prescription, etc., the amount of the bill, any portion of the bill that has been paid and by whom, and any portion of the bill that is still unpaid. This WCJ will not accept submissions of individual medical bills by mail prior to the date of the final hearing.

(c) In the event that the claimant is seeking reimbursement of any costs and expenses of litigation, the claimant shall have assembled any such costs and expenses for submission as one exhibit, which said exhibit shall include a cover sheet indicating the date that the cost or expense was incurred, the type of cost or expense (i.e. whether for a transcript, medical records or reports, a deposition fee, etc.), the name of the supplier of the services, and the amount of the cost or expense. This WCJ will not accept submissions of individual bills or invoices for costs and expenses of litigation by mail prior to the date of the final hearing.

(d) If not already provided, the employer/carrier shall submit a Statement of Wages, if appropriate for the Petition at issue.

If a party desires to present testimony in rebuttal to any evidence presented at the final hearing, that party shall notify this WCJ, in writing, no later than fourteen (14) days following the final hearing, of the identity of the witness and the testimony to be rebutted, sending a copy of such notification to the opposing counsel or party, if unrepresented. That party shall then proceed to take the rebuttal testimony by deposition within forty-five (45) days following the notification. Requests for surrebuttal testimony shall follow the same procedure, with notification occurring within fourteen (14) days following the taking of the testimony to be rebutted, and the deposition occurring within forty-five (45) days after such notification. Testimony in rebuttal to any deposition taken prior to the final hearing shall be presented at the final hearing, provided that the party desiring to present the rebuttal testimony has notified this WCJ, and the opposing counsel or party, if unrepresented, of the identity of the witness and the testimony to be rebutted, within fourteen (14) days following the taking of the deposition.

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

Further explanation:

Reasonable requests received well in advance of the hearing will be considered on a case by case basis.

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

I will consider appropriate motions by parties present at the hearing on a case by case basis.

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

Further explanation:

[Click here to enter text.](#)

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 instructions for First Hearing Filings, Responding Party-45 Day Filings, and rebuttal witnesses under Questions #1 and #4 above.

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?

Generally, I require fact witnesses to testify live at a hearing if it involves paramount issues as to credibility, and I require expert witness testimony to be taken by deposition. Special requests due to extenuating circumstances 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?

The order of medical testimony is addressed 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:

Upload before if possible.

13. Do you require counsel to bring hard copies of the exhibits to the hearing?

Yes No

Further explanation:

[Click here to enter text.](#)

14. When will you rule on objections to exhibits?

Generally at the hearing, except for written preservation of objections to deposition testimony, which will be ruled upon at the time of decision.

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 are utilized.

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

On the date briefs are due.

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:

[Click here to enter text.](#)

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:

[Click here to enter text.](#)

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:

Generally, our office scans in the original C&R document following the hearing in order to expedite issuance of the C&R decision.

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

Further explanation:

[Click here to enter text.](#)

- 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.

Generally, I admit the C&R (with Medicare Set Aside Agreement if applicable) and fee agreement collectively as Joint Exhibit No. 1; the Child Support Documents as Joint Exhibit No. 2; and the Waiver of Appeal (if a separate document) as as Joint Exhibit No. 3. Our office usually scans in the original documents following the hearing, if they were not uploaded prior to the hearing in order to expedite the C&R decision.

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

Prior to submission.

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

Further explanation:

I will consider doing so due to extenuating circumstances on a case by case basis.

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

Further explanation:

[Click here to enter text.](#)

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?

When received by mail or via WCAIS I review and admit the Stipulation as a Joint Exhibit, if properly executed.

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

Further explanation:

[Click here to enter text.](#)

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

Further explanation:

[Click here to enter text.](#)

- 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.

Any other documents referenced in the Stipulation as an attached exhibit to the Stipulation should be uploaded as part of the Stipulation.

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

This should be redacted prior to submission.

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

Further explanation:

[Click here to enter text.](#)

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:

If additional evidence is to be presented after the final hearing, I will set a closing date for the parties to submit additional exhibits via WCAIS or mail. I will also consider requests for an additional hearing for presentation of testimony, i.e. rebuttal testimony, which requests are ruled upon on a case by case basis.

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?

I generally provide a brief/proposed finding deadline at the final hearing. I will consider late filings, if received before the conclusion of my decision and order.

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

I request letter briefs limited to three pages and proposed findings of fact limited to fifteen pages unless leave is requested and granted to extend this limit.

Mandatory Mediations

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

Pottsville

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:

[Click here to enter text.](#)

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:

I generally require all to participate in person, except the employer/insurance carrier representative provided the a representative from the employer/insurance carrier with authority to negotiate is present by telephone at the time of the mediation.

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

If so:

a. What information do you require in that Statement?

(PLEASE PUT LINK HERE FOR: Wayne S. Fegley Form – MEDIATION CONF DISCLOSURE REPORT 2015)

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

Please see the Mediation Disclosure Report.

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

One day.

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

Within 3 months, schedule permitting.

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

Further explanation:

Only if the parties are prepared and negotiating in good faith.

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?

Me.

- 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?

Two weeks.

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

Yes **No**

Further explanation:

[Click here to enter text.](#)

Voluntary Mediations:

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

Further explanation:

Schedule permitting.

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

Pottsville

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

Yes No

Further explanation:

I will consider on a case by case basis.

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 do not have any special procedures for unrepresented parties at mediations.

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:

(PLEASE PUT LINK HERE FOR: Wayne S. Fegley Form – Voluntary Mediation Agmt 2015)

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:

Same policy as for mandatory mediations.

36. Do you require a Mediation Statement? Yes No

Further explanation:

Same policy as for mandatory mediations.

If so:

a. What information do you require in that Statement?

[Click here to enter text.](#)

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

[Click here to enter text.](#)

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

[Click here to enter text.](#)

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

3 months or less, schedule permitting.

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

Further explanation:

Same policy as for mandatory mediations.

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?

Same policy as for mandatory mediations.

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?

Same policy as for mandatory mediations.

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

Yes **No**

Further explanation:

[Click here to enter text.](#)

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?

Two weeks absent exigent circumstances, i.e. an emergency.

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

Further explanation:

I determine whether to allow them on case by case basis and time permitting.

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

Yes No

Further explanation:

I only accept emails through the Pottsville WCOA Resource Account with a copy to opposing counsel. I only accept faxes that are copied to opposing counsel.

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:

I adhere strictly to hearing duration, but I will routinely go over allotted time for mediations.

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

Call my secretary.

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

Cancellations are determined on a case by case basis.

Attachments:

- [Certificate Of Readiness](#)
- [FH Moving Party Claimant Filing](#)
- [FH Moving Party Employer Filing](#)
- [Mediation Conference Disclosure Report](#)
- [Responding Party 45 Day Filing](#)
- [Voluntary Mediation Agreement](#)