

## 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?

The first hearing on a Claimant's petition will be for the Claimant's testimony. The first hearing on an Employer's petition will usually be supersedeas, with no testimony. Appropriate deadlines are set at the first hearing on all petitions. See 34 Pa. Code Chapter 131.

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 filings are appreciated in complex cases or cases with multiple pending petitions, though not required.

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

**Exhibits**  **Documents**

#### **Further explanation:**

Please upload First Hearing Filing into Documents and Correspondence and NOT as an exhibit.

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

**Before**  **After**

**Further explanation:**

Not applicable

3. What are your procedures for supersedeas hearings?

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

**Further explanation:**

In rare circumstances, testimony could be heard, but at least 14 day's advance notice should be given to allow proper scheduling.

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

**Further explanation:**

Defendant's supersedeas documents should be available at the supersedeas hearing. Claimant may have up to 14 days for submission of supersedeas documents.

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

If additional evidence is submitted. However, reconsideration does not necessarily mean a change in the actual order. See 34 Pa. Code Section 131.41.

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

**Further explanation:**

Not applicable

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

Submission of the fee agreement. The fee agreement should be a separate exhibit on the merits.

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

**Further explanation:**

Not applicable

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

**Further explanation:**

The issue is very narrow on an Employee Challenge Petition. If no Modification/Suspension Petition has been filed, only those narrow issues will be considered.

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.

Serial hearings, with Claimant's testimony first on Claimant's petitions. On defense petitions, defense witnesses testify first, with Claimant to follow. Upon request, a change in the format will be considered.

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

**Further explanation:**

At the Doylestown and Easton hearing locations, telephone participation can only be done using cell phones. Because this can be a challenge for the court reporter, it is discouraged except in rare circumstances. Other accommodations can be made if sufficient advance notice is given.

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

If a party fails to appear at a hearing, the petition may be dismissed or granted, depending on the circumstances. Sometimes a re-listing is given.

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

**Further explanation:**

Not applicable

**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:**

To allot proper time for hearings, notice should be given at least 30 days in advance of the hearing.

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

I prefer Claimant's testimony at hearings. Expert witnesses may always testify by deposition. The testimony of all other witnesses should be discussed at the first hearing. Counsel should be mindful of following the Judges' Rules on the taking of testimony.

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

This issue should be discussed at the first hearing or the first hearing after the filing of a new petition, as each case may differ i.e. the Defendant may or may not need a second IME to address an expansion of the injury.

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:**

Exhibits may be uploaded the day of the hearing. The judge will discuss admissibility during the hearing.

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

**Further explanation:**

If it is easier to view a "hard copy" of the exhibit, having it available is appreciated.

14. When will you rule on objections to exhibits?

The judge will make a ruling at the hearing.

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

I am willing to schedule conference calls. I will notify the parties if, in my discretion, I want to attend certain depositions.

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

Preservation of objections must be made in a separate writing before the close of the record. If depositions are uploaded, counsel seeking to preserve objections must do so in a separate writing uploaded as a separate exhibit into WCAIS within 21 days of the upload of the deposition transcript.

**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:**

Not applicable.

- 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:**

If an expedited Order is needed, the parties should notify the judge and upload a FULLY EXECUTED copy of the agreement at least 24 hours before the hearing.

- 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:**

Neither. Generally, our staff will upload the documents to ensure that Social Security Numbers are appropriately redacted. In some circumstances, I may direct counsel to upload the documents immediately after the hearing.

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

**Further explanation:**

Not applicable

- 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.

Whatever the parties wish to be attached will be uploaded as part of the Agreement, within reason.

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

Our staff will redact confidential information before uploading the documents.

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

**Further explanation:**

I will review bench orders and will sign them if acceptable.

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

**Further explanation:**

Please have all documents signed and be prepared to take testimony at the time scheduled for the hearing.

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 mailed or uploaded into WCAIS. If a stipulation is overdue, a status hearing may be scheduled.

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

**Further explanation:**

Not applicable

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

**Further explanation:**

Not applicable

- 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.

If the documents are part of the agreement, they should be uploaded with the Stipulation.

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

Generally, our staff will upload the documents to ensure that Social Security Numbers are appropriately redacted. In some circumstances, I may direct counsel to upload the documents immediately after the hearing.

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

**Further explanation:**

Not applicable

**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:**

A final hearing will not generally be scheduled solely for the purpose of submitting evidence and closing the record. Evidence may be uploaded by the parties via WCAIS. The parties should notify me when all of the evidence has been uploaded into WCAIS, at which point the record shall close and a Briefing schedule will be sent to the parties. If the parties fail to notify me that all evidence has been received, I may either schedule a conference call, send an email, send a Judge communication or schedule a hearing to clarify the cause of the delay.

20. What are the time requirements for the submission of briefs and other post-hearing submissions? Do you have any procedure if the briefs or post-hearing submissions are not received in a timely manner?

Briefs are preferred, but not required. The Judge may circulate a decision without waiting for an overdue brief. See 34 Pa. Code Section 131.101.

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

Briefs should be brief, with a summary of the facts, a statement of the issues, and a legal argument. Quantum Meruit submissions, child support documents, preserved objections and litigation costs may be submitted at the same time as briefs, but should be submitted as individual exhibits, not as part of the brief.

**Mandatory Mediations**

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

Mandatory mediations are conducted in Allentown, in Easton, and in other locations with the agreement of the parties and the Office of Adjudication.

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:**

Not applicable

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:**

Any party may participate by telephone, but mediations are generally more productive when the parties personally attend.

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

If so:

- a. What information do you require in that Statement?

The following information should be included: A summary of the litigation status, the Average Weekly Wage and Weekly Compensation Rate, a summary of negotiations to date, and the amount of authority.

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

None.

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

The mediation statement should be submitted 72 hours in advance. Mediation may be cancelled for failure to comply with this deadline.

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

I schedule mandatory mediations upon request as soon as practicable in order to save the parties the cost of depositions and/or cancellation fees.

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

**Further explanation:**



Not applicable

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?

It is preferable that the parties contact both of us. Because communications sent through WCAIS will only be received by the assigned judge, and not the mediating judge, it would be appreciated that this mediating judge be contacted via telephone or email at [jderita@pa.gov](mailto:jderita@pa.gov), if you cancel the mediation.

b. If you are to be contacted, what is the latest day before the mediation that cancellation or postponement, absent an emergency situation, can be requested?

The day before the scheduled mediation.

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

Yes  No

**Further explanation:**

Please summarize all outstanding medical bills, co-pays, and liens. Be prepared to discuss the status of third party actions, Social Security Disability applications, Social Security benefits, Medicare set-asides, and any other credits or benefits that would impact negotiations.

**Voluntary Mediations:**

30. Do you conduct Voluntary Mediations? Yes  No

**Further explanation:**

I will conduct voluntary mediations upon request.

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

Mandatory mediations are conducted in Allentown, in Easton, and in other locations with the agreement of the parties and the Office of Adjudication.

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

Yes  No

**Further explanation:**

Yes, by agreement of the parties, in accordance with the Judges' Rules.

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:**

Not applicable

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:**

Not applicable

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:**

Any party may participate by telephone, but mediations are generally more productive when the parties personally attend.

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

**Further explanation:**

The mediation statement should be submitted 72 hours in advance. The mediation may be cancelled for failure to comply with this deadline.

If so:

a. What information do you require in that Statement?

A summary of the litigation status, the Average Weekly Wage and Weekly Compensation Rate, a summary of negotiations to date and the amount of authority.

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

None.

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

72 hours.

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

Voluntary mediations are scheduled as promptly as possible, given the schedules of the participants.

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

**Further explanation:**

I will only conduct an additional mediation session if, in my discretion, the parties have demonstrated an ongoing willingness to compromise their positions toward resolution.

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?

It is preferable that the parties contact both of us. Because communications sent through WCAIS will only be received by the assigned judge, and not the mediating judge, it would be appreciated that this mediating judge be contacted via telephone or email at [jderita@pa.gov](mailto:jderita@pa.gov), if you cancel the mediation.

b. If you are to be contacted, what is the latest day before the mediation that cancellation or postponement, absent an emergency situation, can be requested?

The day before the mediation.

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

**Yes**  **No**

**Further explanation:**

Please summarize all outstanding medical bills, co-pays, and liens. Be prepared to discuss the status of third party actions, Social Security Disability applications, Social Security benefits, Medicare set-asides, or any other credits or benefits that would impact negotiations.

**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?

The parties should, as much as possible, adhere to the requirements of the Judges' Rules at 34 Pa. Code Section 131.13.

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

**Further explanation:**

Conference calls should be used sparingly to discuss issues that do not need to be discussed on the record. However, if a record is necessary, I will issue an Interloctury Order confirming the evidentiary rulings made during the conference call.

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

Yes  No

**Further explanation:**

Faxes are acceptable. Please use: jderita@pa.gov or RA-LI-WCOA-Allentown@pa.gov for email requests.

44. Do you adhere strictly to duration listed for a hearing or mediation or are you willing to go over the allotted time? Yes  No

**Further explanation:**

Each circumstance requires its own evaluation. Sometimes it is necessary to proceed with testimony beyond the allotted time.

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

For urgent or emergent situations, call the office or send an email to: jderita@pa.gov or RA-LI-WCOA-Allentown@pa.gov.

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

In Easton and Doylestown, the judge is available for hearings as long as the courthouse is open. In Allentown, the hearing schedule is altered depending upon whether the Allentown School District is delayed or closed. Please check WFMZ.com under Allentown Workers' Compensation Office of Adjudication. Also, check the WCAIS Dashboard.