

## **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?**

For most petitions, the first hearing will be a pre-trial at which the exhibits (including the moving party's First Hearing Filing) are reviewed, witnesses identified and the hearing/mediation schedule provided. All relevant documents should be uploaded in WCAIS prior to the hearing.

#### **a. List any documents required at the first event:**

Generally, the moving party's First Hearing Filing and all available exhibits in accordance with the Special Rules of Administrative Practice and Procedure Before Workers' Compensation Judges should be uploaded PRIOR TO the First Hearing.

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

Exhibits.

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

Generally speaking, a modified one-day one-hearing format is encouraged and will be followed.

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

Yes, the hearing format may be altered as circumstances warrant.

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

The timing of the request, the safety and convenience of the participants, whether all parties are in agreement, whether testimony will be taken, whether there is an objection to a video hearing, the proffered reasons for needing an in-person as opposed to a video/remote hearing, such other considerations as may arise in the Judge's discretion, and in accordance with 34 PA. Code Sections 131.3(a), 131.54 et al. as well as relevant case law.

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

Generally, all virtual events are conducted by audio and video. Hearings may be conducted by audio-only if technical difficulties arise that preclude participation by video. Participation by audio only is at the discretion of the Judge. Relevant factors considered include but are not limited to: the timing of the request, the safety and

convenience of the participants, whether all parties are in agreement, whether testimony will be taken and the proffered reasons for requesting an audio-only hearing.

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

Depending on the type of petition pending, the petition may be dismissed, the requested relief granted, or time afforded to the missing party to explain the failure to appear.

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

No, but requests from the parties for special procedures will be taken under consideration.

**SUPERSEDEAS PROCEDURES**

**1. What are your procedures for supersedeas hearings?**

Supersedeas requests are generally considered at the First Hearing.

**a. Will testimony be heard?**

Testimony is not generally required but may be taken at the discretion of the Judge.

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

Yes, requests by the responding party for an extension of time to submit evidence in response to the request for supersedeas are generally granted if warranted by the circumstances.

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

Upon request if based upon discovery of additional evidence or a change in circumstances.

**d. Do you generally use written orders for denials?**

Yes.

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

The signed fee agreement must be uploaded as an Exhibit in WCAIS before a contingent fee as to indemnity benefits will be approved. No fee on medical benefits will be considered prior to the close of the record.

**f. Describe any other procedures for supersedeas hearings:**

The moving parties' supersedeas exhibits must be uploaded prior to the hearing. Claimant should attend the hearing absent extraordinary circumstances unless prior approval excusing Claimant has been sought and received.

**g. Describe procedures for special supersedeas hearings, if different: n/a**

**WITNESSES/EXHIBITS**

**1. What are your rules regarding taking testimony?**

Expert testimony should be taken by deposition. Claimant's testimony may be taken live or by deposition. Additional fact witness testimony may be presented by deposition or live at hearing live (if prior approval has been granted).

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

Any or all are acceptable. See above.

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

At the request of the parties and/or at the discretion of the Judge.

**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 witness shall have been identified in the First Hearing/Responding Party Filing or as soon thereafter as practicable. Counsel should provide a confirmation notice at least 45 days prior to the hearing. If time permits, the additional testimony will be taken at the hearing.

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

The party filing the initial petition generally proceeds first.

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

The parties should upload the relevant Bureau and WCOA documents prior to the initial hearing. If not submitted, the Judge may, at his discretion, upload them 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?** The exhibits should be uploaded to WCAIS at least 3 days prior to the hearing so that opposing counsel has an opportunity to review the exhibits. Unless offered without objection, an exhibit will not be viewed by the Judge until the hearing.

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

Objections to exhibits will usually be ruled upon on the record at hearing. If raised during a conference call with counsel, the ruling may be memorialized in correspondence.

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

Discovery disputes may be resolved by mail, through conferences with counsel, or at hearing.

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

Up until the close of the record.

**COMPROMISE & RELEASES (C&Rs)**

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

**The fully executed Compromise and Release Agreements and supporting documents should be uploaded prior to the hearing at which Claimant's testimony is taken and on-the-record review takes place. Final review of the executed C&R Agreement will take place, generally at a remote/virtual hearing.**

**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 of pending Petitions are allowed. However, if the C&R does not resolve all pending litigation, the filing of a separate petition is required.

**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?**

The fully executed Compromise and Release Agreements and supporting documents should be uploaded at least two business days prior to 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?**

The fully executed C&R Agreement and fee agreement should be uploaded prior to the hearing at which Claimant's testimony is taken.

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

The requisite child support documentation is to be uploaded as a separate exhibit.

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

Yes, at least one copy of the fully executed C&R Agreement with PPII ("protected personally identifiable information") redacted must be uploaded as an exhibit for circulation as an attachment.

**f. Will you sign bench orders?**

Only in extraordinary circumstances. An official Decision and Order will generally issue within 24 to 72 hours of the hearing.

**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?**

After the parties have uploaded the executed Stipulation to WCAIS, I will review the same and issue an appropriate decision. A formal hearing is not necessary.

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

A separate exhibit.

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

Yes.

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

All exhibits necessary to effectuate the Stipulation should be uploaded. Unless otherwise specified, the additional documentation 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?**

Social security numbers and other confidential information (PII) should be redacted after counsel have confirmed the accuracy of the same but prior to uploading the exhibit(s).

**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; a separate hearing is not required.

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

The time requirements will be set forth on the record at the Final Hearing and/or in an Interlocutory Order. Submissions not timely filed may be accepted upon a showing of good cause and/or at the discretion of the Judge.

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

Proposed Findings of Fact and Conclusions of Law are preferred, with or without accompanying legal briefs. The filings should include: the procedural history; a summary of relevant facts; the specific issue(s) raised; legal argument with appropriate statutory/case law citations; and, the specific relief sought.

**MANDATORY MEDIATIONS**

**1. List the offices where you conduct mandatory mediations:**

Mediations are conducted remotely. If conducting an in-person mediation, the same will generally take place in the Scranton Office of Adjudication.

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

Factors include: The safety and convenience of the participants, whether all parties are in agreement, the timing of the request, the proffered reasons for needing an in-person as opposed to a virtual mediation, and other considerations as may arise in the Judge's discretion.

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

As with hearings, virtual mandatory mediations are generally conducted by audio and video. They may be conducted by audio-only if technical difficulties arise that preclude participation by video. Participation by audio only is at the discretion of the Judge. Relevant factors considered include: The safety and convenience of the participants, whether all parties are in agreement, the timing of the request, and the proffered reasons for needing to participate by audio only.

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

Only in extraordinary circumstances – if an in-person mandatory mediation has been requested and granted, all participants are expected to attend in-person.

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

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

The confidential settlement memorandum should confirm the amounts of the demands made and offers received, outstanding medical bills, and the submitting party's proposed resolution to the dispute, along with such other relevant information necessary to assist in resolution of the matter.

**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?**

At least one-week prior to the scheduled mediation.

**6. If there is a request to postpone a mandatory mediation, will it be rescheduled? Yes.**

**If so, how long until it is rescheduled?** That depends on the Judge's schedule.

**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?**

Seven days prior to the scheduled mediation date.

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

Counsel should thoroughly discuss resolution of the matter with their client PRIOR TO THE MEDIATION. The more prepared counsel and their client(s) are for the mediation, the more likely it is to be successful.

### **VOLUNTARY MEDIATIONS**

**1. Do you conduct Voluntary Mediations?**

Yes.

**2. How should the parties request a Voluntary Mediation?**

Via WCAIS.

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

Scranton – WCOA.

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

Yes, this is preferred as it has proven particularly effective. I will conduct virtual voluntary mediations for any district.

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

Yes, if requested by the parties with the agreement that I will retain the Dispute for Decision if it does not resolve.

**6. Do you mediate Disputes in which one or both parties are unrepresented? If yes, describe any special procedures you have for such cases:**

No.

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

The safety and convenience of the participants, the positions of the parties, the timing of the request, the proffered reasons for needing an in-person as opposed to a virtual mediation and other considerations as may arise in the Judge's discretion.

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

Factors include: The safety and convenience of the participants, whether all parties agree, the timing of the request, the proffered reasons for needing to participate by audio and other considerations as may arise in the Judge's discretion.

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

No, absent an emergency that prevents in-person attendance.

**10. Do you require a Mediation Statement? YES. If yes:**

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

The confidential settlement memorandum should identify the issues/petitions in dispute, a statement of undisputed facts, the amounts of the demands made and offers received, and the submitting party's proposed resolution to the dispute, along with such other relevant information necessary to assist in resolution of the matter.

**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?**

At least three days prior to the scheduled mediation.

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

Providing the schedule allows, generally two to four weeks.

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

Yes, if the parties are mediating in good faith and progress is being made.

**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?**

The mediating Judge.

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

Cancellations or postponements should be requested as soon as possible but notice of at least one week prior to the scheduled mediation is appreciated. The request should always indicate the reason for the request and position of the other parties.

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

Counsel shall have thoroughly discussed resolution of the matter with their client PRIOR TO THE MEDIATION. The more prepared counsel and their client(s) are for the mediation, the more likely it is to be successful.

**REQUESTS/MISCELLANEOUS**

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

Requests for continuances and any other scheduling changes should be uploaded as a Request in WCAIS as soon as counsel/the parties are aware of the need for the same. The requesting party should always identify the reason for the request, when the need arose, and the position of all other parties with respect to the request. If the position of the opposing party is unknown, the requesting party must provide the number of attempts made to contact the opposing party.

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

Conference calls during which no record is made may be used to discuss discovery disputes, scheduling matters, and mediations.

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

The parties should utilize WCAIS for communications and requests.

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

Yes, as multiple events are scheduled for each day. If the schedule allows, additional time will be provided.



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

By WCAIS Request to my attention or by contacting my Administrative Assistant as identified on page 1.

**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.)?**

For in-person events, closing information is generally posted on WCAIS. Office closings and weather-related closings do not generally impact Virtual events.