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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?

The First Hearing is a virtual Scheduling Hearing. Testimony will only be taken if the hearing involves a Challenge or Compromise and Release Petition. Otherwise, no testimony will be taken. Counsel for the Moving Party should be prepared to discuss the relief they request, their theory of the case, identify their witnesses and provide the date of the deposition of their medical expert. The issues both factual and legal, the manner of presentation of evidence and testimony, the scheduling of future hearings, the possibility of mediation and time deadlines for the presentation of evidence will also be discussed and time limits set. Following the hearing an Interlocutory Scheduling Order will be circulated setting forth the matters decided at the hearing which will become the case plan for the Dispute. Discoverable information should be exchanged prior to the first hearing consistent with Section 131.61 of the WCJ Rules. The only exceptions are Challenge Petitions and Compromise and Release Petitions. For both of those type petitions the First Hearing will be the only hearing. All evidence will be presented at the virtual hearing and all relevant testimony will be taken based on the limited scope of the Petitions.

a. List any documents required at the first event:

The Moving Party is required to file a First Hearing Filing that conforms to the requirements of Section 131.52(d) of the WCJ Rules. The Responding Party may file their Responding Party Form at the First Hearing should all required information be available at that time but is required to file their Responding Party Form containing the information set forth in Section 131.53 of the WCJ Rules within 45 days of the First Hearing.

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

Any document that is submitted as evidence should be uploaded as an Exhibit. Any document that is intended solely to provide information to the Judge and is not part of that party's evidentiary case, should be uploaded as a Letter to the Judge. For example, the First Hearing Filing and Responding Party Form should be uploaded as a Letter to the Judge.

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

Following the First Hearing a hearing will be scheduled for the Moving Party to present testimony and a final hearing may be scheduled for the Non-Moving Party to present testimony, if needed. This format may be modified based on the information provided at the Scheduling Hearing and as instructed in the Scheduling Order.

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

The method, manner, and time requirements of the presentation of evidence will be addressed at the Scheduling Hearing.

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

The default is to schedule events as virtual hearings unless a request is made for an in-person hearing. The request should be made at the First Hearing, but if circumstances require that the request be made at another time, it can be submitted through WCAIS. If a hearing has already been scheduled to be conducted virtually, any request for an in-person hearing will be considered a continuance request which must be made in a timely manner in accordance with the Rules. If the request is not timely made it will be denied absent good cause for a late request.

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

Counsel, Parties and Witnesses are expected to appear by video at all virtual hearings. If the party knows in advance of the hearing that audio only is needed a Request must be made in WCAIS at least seven days before the hearing. Any Request for audio only made within seven days of the hearing must include a reason why the request could not have been made sooner.

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

Should a party fail to appear at a hearing, an Interlocutory Order will be issued providing the Party an opportunity through a written submission to show good cause for their failure to appear. The Order will also provide notice that should good cause not be found to exist to excuse their absence the Petition will either be dismissed or decided on the evidence presented, whichever is appropriate for the petition pending. Should the party's timely filed written submission provide a plausible explanation for their failure to appear, the hearing will be relisted. Should the opposing party object to the relisting, the party that did not show for the hearing will be required to present evidence of the reasonableness of their excuse for failure to attend the prior hearing at the relisted hearing to be ruled upon before the hearing moves forward with the matters for which it was originally scheduled. If a party fails to appear for a mandatory mediation where this Judge is the litigating Judge, the party risks the imposition of sanctions that are available to the litigating Judge.

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

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

Supersedeas Hearings are conducted at the time of the First Hearing in accordance with the procedures set forth below.

a. Will testimony be heard?

No testimony will be taken. However, affidavits may be submitted. All supersedeas documents consistent with Section 131.42 of the WCJ rules should be uploaded into WCAIS before the hearing.

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

Additional time is not generally granted but a brief extension of time may be granted the Responding Party to obtain medical records or reports, based on good cause shown.

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

Reconsideration will only be entertained based on new material evidence that did not exist at the time of the supersedeas order.

d. Do you generally use written orders for denials?

Yes

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

A denial of the Supersedeas Request and a Fee Agreement signed by Claimant and uploaded to WCAIS prior to the issuance of the Interlocutory Order denying the Supersedeas Request.

f. Describe any other procedures for supersedeas hearings:

N/A

g. Describe procedures for special supersedeas hearings, if different:

Special Supersedeas Hearings for the disposition of the automatic special supersedeas under Section 413(a.1) of the Act will be determined based on documents, not testimony and be conducted consistent with Section 131.49 of the WCJ Rules and controlling case law. Employee requested special supersedeas hearings under Section 413 (c) and (d) of the Act involving Challenge Petitions will be listed for a First Hearing at which limited testimony on the relevant issue will be taken. The hearing will be conducted consistent with Section 131.50(a) and controlling case law.

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

Parties should refer to the Scheduling Order for instructions for the presentation of testimony and other evidence in each dispute. Except for Challenge Petitions and Compromise and Release Petitions, no testimony will be taken at the First Hearing. For all other Petitions the manner of the presentation of testimony will be determined at the First Hearing and set forth in the Scheduling Order. See First Hearing Procedures on page 1 of this document.

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

Parties should refer to the Scheduling Order for instructions for the presentation of testimony and other evidence in each dispute. Generally, Claimant's testimony may only be presented at a virtual or in-person hearing. Claimant will not be allowed to testify by deposition, absent preapproval based on exceptional circumstances. Testimony of other witnesses may be presented at a virtual or in-person hearing or by deposition, depending on what best suites the case. This issue will be addressed at the Scheduling Hearing and instructions will be provided in the Scheduling Order.

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

Since the parties are provided an opportunity to customize the presentation of testimony to fit their Dispute at the beginning of the litigation at the Scheduling Hearing, deviation from the resulting Scheduling Order will only be allowed upon good cause show. Should a party desire to change how testimony is scheduled to be

presented, a WCAIS request should be directed to the Judge setting forth the desired change, the reasons for the change and the position of opposing counsel at least 10 days prior to the scheduled hearing. Should the Request be granted it will be treated as a Request for a Continuance and the hearing rescheduled.

4. If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice?

Yes. The Moving Party must identify all witnesses in the First Hearing Filing and the Responding Party should be prepared to provide a tentative list of witnesses at the Scheduling Hearing to be confirmed by the timely filing of the Responding Party Form. Any Request to present any witnesses other than those previously so identified must be made through a WCAIS Request at least 10 days prior to the hearing and will only be granted based on good cause shown as to why the witness is needed and why the witness was not previously identified.

If yes, how much notice do you require? See above.

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

The Moving Party in the first Petition filed has the burden of moving forward and scheduling their expert medical testimony unless the parties agree otherwise at the First Hearing.

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

All relevant Bureau and WCOA documents will be admitted by the Judge as Judge Exhibits.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing?

Counsel should upload all exhibits before the hearing.

If before, how far in advance of the hearing must they be uploaded?

Exhibits should be uploaded 48 hours before the hearing.

8. When will you rule on objections to exhibits?

Objections to exhibits will be ruled upon at the hearing. Should there be no additional hearings scheduled objections will be ruled upon by Interlocutory Order after the Non-Objecting Party has had an opportunity to respond to the objection.

9. What is your procedure for handling discovery disputes?

Intractable discovery disputes should be presented to the Judge through a Letter to the Judge with a copy to opposing counsel who will be afforded an opportunity to respond. Should the dispute not be amenable to resolution through written submissions a Status Hearing will be scheduled. Parties should be aware, if at any time during these procedures the Judge determines he has sufficient information to rule upon the dispute he will issue Judge Correspondence deciding the dispute.

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

Properly preserved deposition objection will be ruled upon prior to the close of the evidentiary record. The last day to file written preservation of deposition objections shall be the day the deposition is submitted. The

written preservation of deposition objections shall be submitted as a separate Exhibit through WCAIS at the time the deposition is submitted. Any objections not so preserved are deemed waived.

COMPROMISE & RELEASES (C&Rs)

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

Hearings to review and approve Compromise and Release Agreements shall be conducted virtually with the Claimant testifying by audio with video. Fully signed Compromise and Releases Agreements and Child Support Documents will be submitted through WCAIS at least 48 hours prior to the hearing. The documents will be reviewed for compliance with the Workers Compensation Act and possible errors. Should any potential deficiency be found in the documents by the Judge prior to the hearing, the parties will be notified in the “Instructions from the Judge” section of WCAIS. Counsel is cautioned that failure to follow the instructions from the Judge may result in a postponement of the C&R 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 existing petition will be allowed. However, if the agreement does not resolve all pending Petitions a separate Petition to Approve a Compromise and Release Agreement should be filed.

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?

Drafts of the Agreement should not be provided.

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

The Signed C&R Agreement with the Fee Agreement attached should be uploaded at least 48 hours before the hearing. The C&R Agreement should be signed by all required parties prior to its upload.

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

The signed Child Support Documents should 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?

Social Security numbers must be redacted from C&R Agreements and any attachments. Unredacted child support documents shall be uploaded as a separate exhibit. Act 109 documents are not circulated with the Decision and Order.

f. Will you sign bench orders? No.

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

Failure to upload all required settlement documents at least 48 hours before the scheduled hearing may result in the cancellation and rescheduling of the hearing. Claimant’s Counsel is responsible to ensure that the Claimant can join and satisfactorily participate and testify at the virtual hearing. Claimant’s Counsel is also responsible for ensuring that Claimant has at the time of the hearing a copy of the fully executed Compromise and Release Agreement and Child Support Documents that have been uploaded to WCAIS.

STIPULATIONS RESOLVING DISPUTES

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

The Stipulation should be submitted through WCAIS as an Exhibit. The document should clearly describe the proposed resolution of the pending petitions and identify any petitions or issues that have not been resolved. The Stipulation should meet the requirement set forth in Section 131.91 of the WCJ Rules.

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

The Fee Agreement should be a separate exhibit.

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

Child Support documents should be uploaded as a separate exhibit.

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

Other exhibits are not required unless they are specifically referenced in the stipulation and not otherwise a part of the record.

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

Whether other exhibits are uploaded as attachments to the stipulation or as separate exhibits depends on the terms of the stipulation and how those documents are referenced in the stipulation.

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

Social Security numbers must be redacted from the Stipulation and all other documents with the exception that Act 109 documents should not be redacted. Act 109 documents are not circulated with the Decision and Order.

7. Describe any other procedures you have for stipulations:

The Parties should submit a Request to approve the stipulation at the time the Stipulation is uploaded as an Exhibit.

BRIEFS AND PROPOSED FINDINGS

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

While a case may close at a final hearing, a final hearing is not necessary to close the case. Cases may also close by WCAIS submission.

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

The time requirements for final submissions vary from case to case and will be addressed at hearing, Judges Correspondence, or Interlocutory Order. Requests for extension of time to file briefs must be made through WCAIS before the expiration of the party's deadline. When the time requirement for the filing of a brief is not met the case will be decided without consideration of that party's brief.

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

Submissions following the close of the evidentiary record may include those documents set forth in Section 131.101 of the WCJ Rules and in a format that conforms with that Section of the Rules. All such submissions shall be submitted as a Brief through WCAIS. Specifically, such submissions may include Proposed Findings of Fact, Conclusions of Law, and Proposed Order and a Brief or Letter Brief setting forth the party's legal or factual arguments. Proposed Findings of Fact should contain a specific cite to the record including page numbers from transcripts.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations: Wilkes-Barre

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

Mediations will be conducted by video conference unless a compelling reason exists to conduct the mediation in person.

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

The Claimant, Claimant's Attorney and Employer's Counsel must participate by audio with video. Adjusters or other non-attorney representatives of the Insurer, TPA, Self-Insured or Employer with settlement authority may participate by either audio with video or 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?

If a Mediation is scheduled as an in-person mediation, all Counsel and the Claimant must participate in-person. A non-attorney representative of the Insurer, TPA, Self-Insured or Employer with settlement authority may participate virtually.

5. Do you require a Mediation Statement? Yes.

If yes:

a. What information do you require in that Statement?

Name of Claimant; Name of Employer; WCAIS Dispute Number; Date of the Mediation; Date of Injury; Claimant's Age and Date of Birth; Average Weekly Wage; Compensation Rate for TTD; Claimant's pre-injury job; Description of Injury, whether the description is contested and if so the party's position; If the Dispute involves a Labor Market Survey and if so the partial disability rate set forth in the survey; the current status of Claimant's benefits, both wage loss and medical; Brief summary of Claimant's medical treatment since the date of injury and proposed future treatment; the identity of Claimant's treating or examining physicians and their diagnosis if different from the accepted work injury; the identity of Employer's examining physicians and their opinion regarding Claimant's work injury; Information regarding any known or potential liens, MSA or third party action; Brief summary of pre-mediation settlement negotiations; and what Counsel believes are impediments to a negotiated settlement.

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

None required.

c. How far in advance of the mediation must the parties submit the Statement and accompanying documents? 48 hours

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

Whether it is rescheduled depends on reason for the request and the parties' position toward settlement at that time.

If so, how long until it is rescheduled?

As soon as possible, schedule permitting.

7. Are you willing to conduct more than one mandatory mediation session per Dispute?

Yes. Upon joint agreement of the parties.

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

Seven days.

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

Claimant must be present, virtually or in-person depending on the forum utilized. All parties must be prepared to engage in meaningful settlement negotiations. The Insurer, TPA, Self-Insured or Employer should have the person with requisite settlement authority to resolve the matter available by phone or otherwise throughout the time of the scheduled mediation. It is preferred that the parties have initiated settlement talks before the mediation and have at least exchanged a demand and settlement offer.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes

2. How should the parties request a Voluntary Mediation?

A request for a voluntary mediation should be made through a WCAIS Request.

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

As with mandatory mediations, voluntary mediations will be scheduled virtually unless there is a compelling reason to schedule an in-person mediation. In-person voluntary mediations are held in Wilkes-Barre but it is possible with Administrative Approval may be conducted in other WCOA offices.

4. Will you conduct virtual voluntary mediations? Yes.

If yes, for which WCOA Districts will you conduct them?

Any District with Administration Approval

5. Do you mediate Disputes assigned to you for hearing and decision? No

6. Do you mediate Disputes in which one or both parties are unrepresented? Yes

If yes, describe any special procedures you have for such cases:

Additional time is allotted, and a Mediation Statement is not required from unrepresented parties.

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

Mediations will be conducted by video conference unless a compelling reason exists to conduct the mediation in person.

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

The Claimant, Claimant's Attorney and Insurer's Counsel must participate by audio with video. Adjusters or other non-attorney representatives of the Insurer, TPA, Self-Insured or Employer with settlement authority may participate by either audio with video or audio only.

9. Are you willing to allow counsel or a party to participate virtually in an in-person voluntary mediation?

Counsel and the Claimant may not participate virtually in an in-person voluntary mediation, but a non-attorney representative with settlement authority may participate virtually.

If so, under what circumstances?

If a Mediation is scheduled as an in-person mediation, all Counsel and the Claimant must participate in-person. A non-attorney representative of the Insurer, TPA, Self-Insured or Employer with settlement authority may participate virtually.

10. Do you require a Mediation Statement? Yes

If yes:

a. What information do you require in that Statement?

Name of Claimant; Name of Employer; WCAIS Dispute Number; Date of the Mediation; Date of Injury; Claimant's Age and Date of Birth; Average Weekly Wage; Compensation Rate for TTD; Claimant's pre-injury job; Description of Injury, whether the description is contested and if so the party's position; If the Dispute involves a Labor Market Survey and if so the partial disability rate set forth in the survey; the current status of Claimant's benefits, both wage loss and medical; Brief summary of Claimant's medical treatment since the date of injury and proposed future treatment; the identity of Claimant's treating or examining physicians and their diagnosis if different from the accepted work injury; the identity of Employer's examining physicians and their opinion regarding Claimant's work injury; Information regarding any known or potential liens, MSA or third party action; Brief summary of pre-mediation settlement negotiations; and what Counsel believes are impediments to a negotiated settlement.

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

None required

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

48 hours before the scheduled Mediation.

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

It will depend on my schedule at that time.

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

Yes

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 parties should contact the Judge to whom the Dispute is assigned. However, even if the Party contacts the Mediating Judge the request will be forwarded to the Assigned Judge for consideration.

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

Seven days

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

Claimant must be present and both parties prepared to engage in meaningful settlement negotiations. The Insurer, TPA, Self-Insured or Employer should have the person with requisite settlement authority to resolve the matter available by phone or otherwise throughout the time of the scheduled mediation. It is preferred that the parties have initiated settlement talks before the mediation and have at least exchanged a demand and settlement offer

REQUESTS/MISCELLANEOUS

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

All Requests should be uploaded in WCAIS. The Parties should refer to the WCJ Rules regarding continuances.

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

I prefer not to conduct conference calls. I prefer to have issues presented on the record and will schedule a Status Hearing if required to address an unanticipated concern.

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

The Parties are to utilize WCAIS for all communications with the Judge.

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

Yes. Hearings and Mediations are scheduled for specific time slots and failure to strictly adhere is not fair to the parties in those other disputes. It is imperative that Counsel fully advise the Judge at the First Hearing of the anticipated time needed for the presentation of evidence and keep the Judge informed of any anticipated change as the litigation continues.

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

Email my assistant. Opposing Counsel must be copied on the email.

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.)?

Any cancellations will be posted in WCAIS. It is not anticipated that any virtual events will be cancelled due to weather.