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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 event will be a hearing. All hearings will be scheduled as a virtual event by default. The parties are free to submit a WCAIS request to change to an in-person hearing. You must state whether any party objects to an in-person hearing. For claim petitions and challenge petitions, the first hearing will be listed for 45 minutes, and Claimant will be expected to testify. Video hearings are required for Claimant testimony. For all other petitions, the hearing will be listed for 15 minutes to address trial schedules, supersedeas and order of evidence.

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

First hearing filings are not required. The Judge will obtain the Bureau documents electronically to the extent that they are available in WCAIS and place them into evidence as Judge's Exhibits. Any documents that the parties wish to address during the hearing should be uploaded prior to the hearing.

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

If a party chooses to do a first hearing filing, it must be uploaded to Documents & Correspondence. Do not submit it as an exhibit. The same applies if a party chooses to submit a 45-day filing.

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

I generally follow a serial hearing format.

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

Requests for format change may be presented to the Judge via WCAIS or at hearing for consideration. If requests are filed in WCAIS, the filing party MUST ascertain the position of all interested parties.

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

Testimony of Claimant and/or other witnesses and viewing of scars would be factors that would warrant an in-person hearing. Location of Claimant's residence would also be a factor as to whether an in-person hearing is feasible. However, if masks are required indoors of all persons at the time of hearing, then this Judge would prefer a virtual hearing with video testimony.

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

I require all parties to use video for all virtual events and know how to instruct witnesses or attendees to use the available technology. Being over three years post-pandemic, it is inconceivable that an attorney would not be able to join any hearing via video. If a witness is unable to use videoconferencing for a hearing, please submit a Request to the Judge via WCAIS to address alternatives.

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

It will vary depending upon the missing party and type of petition. In most cases, a letter will be sent to the missing party advising them to participate in the next scheduled hearing or they risk an adverse determination.

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

No

**SUPERSEDEAS PROCEDURES**

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

See below

**a. Will testimony be heard?**

No. Supersedeas evidence should be uploaded PRIOR to hearing. No testimony will be heard, but the parties are free to submit affidavits.

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

Yes. The regulations provide a maximum of 14 days additional time from the date of hearing. 34 Pa. Code § 131.43. Anything beyond 14 days shall be subject to judicial discretion and any objection from opposing counsel.

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

The procedures under 34 Pa. Code § 131.41(b) will be followed. The parties must use the Request tab in WCAIS for reconsideration requests.

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

No, unless a fee approval is requested.

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

The fee agreement should be uploaded into WCAIS prior to the first hearing for the case in chief (not supersedeas) and will generally be approved if the request for supersedeas is denied. Claimant's counsel should file a miscellaneous request through WCAIS if it appears the fee agreement has not been approved. A fee on medical benefits shall not be approved until Claimant has testified as to their understanding of such an arrangement.

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

Be prepared to address whether the parties would like to enter mediation at the outset.

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

N/A

## WITNESSES/EXHIBITS

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

All hearings are scheduled for virtual format by default, and this Judge requires video appearance for Claimant's testimony. Counsel must submit a request in WCAIS if they wish to request an in-person listing. The Request must state the position of all interested parties. For witnesses other than claimants, the parties are free to present their witnesses in a format of their own choosing, such as deposition or hearing, subject to any objection by an opposing party.

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

Testimony by virtual hearing with video is the default scheduling, but this Judge does not have any opposition to conducting in-person hearings upon request. Depositions may be conducted for testimony upon agreement of the parties, but the Judge would prefer to see the Claimant, either virtually or in-person, at least once.

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

Any requests for a change in the presentation of testimony may be presented to the Judge for consideration via the Request tab in WCAIS or addressed at hearing. The position of any Interested Parties must be set forth in any WCAIS request.

### **1. If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice? Notice of witness testimony is required if it appears the amount of time set for the hearing is insufficient. A party must submit a request via WCAIS if further time is needed. You must set forth the position of any Interested Parties in your request. Please note that, as a general rule, the Judge will not be expecting any testimony when a hearing is scheduled for 15 minutes or less. Conversely, if a hearing is scheduled for 20 minutes or more, this is an indication that testimony may be expected.**

**If yes, how much notice do you require?** A minimum of 14 days in advance of the scheduled hearing is appreciated.

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

Generally, the party with the burden of proof is expected to proceed first with its evidence, including the completion of medical evidence. If cross petitions are filed, the Judge will establish the order for taking and presentation of medical evidence at the first hearing.

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

The Judge will move any Bureau or WCOA documents into evidence as Judge's Exhibits to the extent available.

### **4. Do you require counsel to upload exhibits to WCAIS before or after the hearing? If before, how far in advance of the hearing must they be uploaded? At least 48 hours.**

### **5. When will you rule on objections to exhibits?**

Objections to exhibits may be made at hearing and will be addressed at that time. If a hearing is not scheduled and a party wishes to object to an exhibit, the party objecting must do so through the Request tab in WCAIS.

### **6. What is your procedure for handling discovery disputes?**

Discovery disputes will generally be handled via telephone conference or email to the parties.

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

The last day to file written preservations of deposition objections is the party's briefing deadline date. Please file such objections as a Letter to Judge under the Documents & Correspondence tab in WCAIS.

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

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

See below

**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 to existing petitions are preferred. However, a separate Petition to Seek Approval of a C&R Agreement must be filed if the parties are leaving all existing petitions open for decision.

**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?**

No draft required, but the signed Agreement must be uploaded at least 24 hours 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?**

Upload prior to the hearing, at least 24 hours in advance.

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

Yes

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

Yes. Please upload one copy of the C&R Agreement with redactions and one without redactions. Please upload one copy of the Act 109 documents with appropriate redactions and one without redactions.

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

Yes, to the extent possible.

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

If any handwritten notations are made on the C&R Agreement, such handwritten notations or alterations must be initialed by all counsel and claimant. Claimant's counsel must appropriately prepare their client for the C&R hearing, including an instruction to have their settlement documents in front of them during the hearing. This Judge prefers that all paragraphs be filled out, including the use of "N/A" if no information is necessary. Please avoid leaving blank lines/paragraphs.

**STIPULATIONS RESOLVING DISPUTES**

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

Stipulations should strictly follow the requirements of Section 131.91. Stipulations should be uploaded as an exhibit.

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

Separate exhibit.

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

Yes.

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

I leave it up to the parties as to whether they want any attachments to be uploaded with the Stipulation. The parties remain responsible for ascertaining that all confidential information is redacted from any attachments.

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

If the parties want something attached to the Stipulation and issued as an attachment to the Decision, then upload such attachments as part of the Stipulation document. The only exhibit attached to a decision approving Stipulation is the Stipulation exhibit.

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

Confidential information should always be redacted from any exhibits that will be attached to the Judge's Decision.

**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?**

Either method is permissible per the Judge's discretion.

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

Briefs will generally be due simultaneously from the parties with the ability to file one responsive brief each. The parties are expected to follow the briefing schedule. If an extension is needed, there is a specific mechanism for such request under the Briefs tab in WCAIS. Any request for extension should be made prior to the deadline passing. If a submission is late, but prior to the Judge deciding the case, it will be considered.

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

No preference as to format. If there is a novel or out of the ordinary legal issue, please have citations to case law supporting your position.

**MANDATORY MEDIATIONS**

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

Virtual preferred but will consider an in-person mediation at Harrisburg office upon request.

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

Virtual mediations are preferred. The parties are free to present any factors involved for a request for an in-person mediation via WCAIS request. All parties must agree to an in-person mediation prior to requesting same. In-person mediation requests may be denied based upon any CDC recommendations or Commonwealth policies in place at the time of mediation.

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

All parties are strongly encouraged to use video in virtual events. However, the use of video shall not be mandated for mediation at this time.

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

Yes, for any health or safety concerns.

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

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

Brief outline of case history, your position, strengths and weaknesses, history of negotiations, etc.

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

The Judge will rely upon the evidence and transcripts available for viewing in WCAIS. To the extent that there are any documents not in WCAIS that would be particularly relevant, please attach to the Mediation Statement.

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

Two days prior.

**6. If there is a request to postpone a mandatory mediation, will it be rescheduled? In most cases, yes, unless the postponement request contains information that a rescheduling would not be appropriate or necessary.**

**If so, how long until it is rescheduled?** Generally, rescheduled for a date in 30 days. The parties are free to offer information as to the appropriate rescheduling timeframe within their request.

**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?**

The request must be made at least two days prior to the mediation, especially if interpreters or security have been scheduled for the mediation.

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

N/A

**VOLUNTARY MEDIATIONS**

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

Yes

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

The parties must use the Voluntary Mediation request function in WCAIS. The parties may contact the Judge's secretary to obtain an idea of available dates prior to making the request.

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

Harrisburg

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

Yes, for all WCOA Districts.

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

Yes. No special procedures.

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

Health and safety concerns, and any other concerns that the parties may wish to present to the Judge.

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

Although video is strongly encouraged, it is not mandated at this time.

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

Yes, as appropriate circumstances dictate.

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

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

Brief outline of case history, your position, strengths and weaknesses, history of negotiations, etc.

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

The Judge will rely upon the evidence and transcripts available for viewing in WCAIS. If there is no pending litigation or prior case history in WCAIS, please attach relevant documents to the Mediation Statement, such as IMEs, etc.

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

Two days prior.

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

If the parties do not provide a requested date or timeframe in their request, the general rule shall be to schedule the mediation approximately 30 days from the date of the request.

**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 mediating Judge. If the parties postpone a mediation in a dispute assigned to me, please remember to upload a separate Continuance request if any hearings need to be rescheduled as a result. Do not use one request to postpone both a mediation and a hearing.

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

The request must be made at least two days prior to the mediation, especially if interpreters or security have been scheduled for the mediation

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

N/A

**REQUESTS/MISCELLANEOUS**

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

The parties are directed to follow the requirements of 34 Pa. Code Section 131.13 for hearing continuances. I am willing to entertain requests for a change in the time for a hearing, provided that the party will certify that they obtained consent from all other parties and will notify all parties if the change is granted. If an extension of time for the trial deadlines is needed, the parties are directed to make such request in WCAIS under the Request tab before the deadline passes and prior to the next scheduled hearing. Remember to ascertain the position of all interested parties prior to submitting the request. In most cases, there will be an automatic denial of any request that lists the position of an Interested Party as Unknown.

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

As circumstances warrant within the Judge's discretion.

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

I prefer submission through WCAIS for all communications. However, I will accept emails provided all the interested parties are clearly copied on such email.

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

Strict adherence to hearing time with leniency as the Judge's schedule allows, but mediations may go over time as necessary and as schedule allows.

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

Email: leahlewis@pa.gov

**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, I follow the Commonwealth of PA, Capitol Complex, for Harrisburg events, and Careerlink, York County, for York events. However, if predicted weather events cause concern, the Judge may convert scheduled in-person events to virtual events ahead of time. If such change is made, you will receive an email from either the Judge or Judge's secretary with the virtual event information and link. Virtual events will not be cancelled for weather. If scheduled events need to be cancelled due to unforeseen emergency on the Judge's part, such cancellation will be noted in the Judge Instruction box for the dispute in WCAIS and an alert will be placed on the WCAIS Dashboard.