

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?**

As a default, all hearings will be scheduled as virtual hearings. All petitions filed by Claimants will be allotted 30-45 minutes for the presentation of Claimant's testimony at the first hearing. All Employer initiated petitions will be conducted as supersedeas/pre-trial hearings and allotted 15 minutes. The parties can submit a request for an in-person hearing setting forth the reasons that an in-person hearing is needed; however, if granted the hearing will be continued and scheduled on a day that in-person hearings will be held.

a. List any documents required at the first event:

First hearing submissions are required in accordance with Rules 131.52(d) and 131.53(a) of the Special Rules of Administrative Practice and Procedure Before Workers' Compensation Judges, 34 Pa. Code Ch. 131. The Parties are required to provide the last operative Bureau document and any additional Bureau documents that are relevant to the pending litigation. Evidence submitted at hearing as well as Supersedeas evidence shall be uploaded as an Exhibit prior to the hearing to allow for meaningful discussion regarding the proposed Exhibit.

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

First hearing/45-day filings should be submitted as a letter to Judge through WCAIS as they are not Exhibits. If a document is intended to be an Exhibit, such as Bureau documents, costs or preservation of objections, they shall be uploaded as Exhibit. PARTIES SHOULD BE AWARE THAT MERELY UPLOADING DOCUMENTS TO WCAIS DOES NOT MEAN AN EXHIBIT IS AUTOMATICALLY ADMITTED INTO THE EVIDENTIARY RECORD.

1. When uploading Exhibits to WCAIS, the attorney of record is responsible for Exhibit documents being uploaded correctly, complete, accurate and named appropriately.

2. The parties SHALL complete Exhibit name and NOT label it "C" or "D" or a number. Exhibit Description is an optional field and does not need to be duplicative of the Exhibit Name. If there is nothing to add to Exhibit Description given the Exhibit name (such as Fee Agreement), it can be left blank. If the parties fail to correct name the Exhibit, it will not be admitted until the parties correctly upload and name their Exhibit.

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

Serial hearings, if needed

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

Circumstances will dictate. Will consider requests for in-person hearing but Judge will use his discretion as to whether request will be granted or if the hearing will remain a virtual hearing.

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

All hearings will be scheduled as a virtual hearing and the parties should be aware that at the first hearing on Claimant Petitions it is expected Claimant will testify in support of his/her Petitions. Therefore, if a party objects and requests an in-person hearing, upon receipt of the hearing notice, the parties shall submit a WCAIS request for an in-person hearing. For Defendant Petitions, at the first hearing, the parties can advise if they want testimony hearings to be in person or virtual by video. If the parties want an in-person hearing or if there are special circumstances that may require an in-person hearing then the hearing will be in-person. If a hearing is being conducted in-person, all those involved, including the parties and any witnesses must appear in-person.

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

All virtual hearings will be scheduled such that the parties can attend via video and/or audio. However, all parties are expected to attend the virtual hearing via video (Microsoft Teams) rather than telephone unless specifically excused. If issues arise during the virtual hearing, accommodations will be considered in order to continue to move the litigation forward.

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

If a party fails to appear at hearing, they will be afforded ten (10) days to provide a written reasonable explanation for the failure to appear. If the explanation is timely and reasonable, the parties will be allowed to present evidence with respect to the failure to appear. If the explanation is not reasonable or if it is not timely, the party will be precluded from presenting any evidence and the matter will be decided based upon the evidence presented by the opposing party. If the moving party fails to appear for hearing, the petition(s) will be dismissed. The party that failed to attend a hearing is responsible for any deadlines that were issued during the hearing.

6. Do you have special procedures for psychological injury cases?

No, but depending on the circumstances, I am willing to consider reasonable accommodation requests.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

Supersedeas hearings will be scheduled as virtual hearings. The parties are expected to have their supersedeas evidence uploaded at the time of hearing and to discuss evidence at time of the hearing as well as mandatory mediation. Exhibits should be uploaded separately and a Memorandum of Law supporting Supersedeas requests are not necessary and should not be uploaded as an Exhibit but as correspondence to the Judge.

a. Will testimony be heard?

While testimony is not required and an affidavit would be sufficient, Claimant will be permitted to present brief testimony ONLY on Supersedeas and/or to authenticate the Fee Agreement.

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

The parties are expected to present their supersedeas evidence at the time of the first hearing and therefore all supersedeas evidence shall be uploaded prior to the hearing. Any request for additional time for submission of supersedeas evidence will be considered on a case by case basis.

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

Depends on the circumstances of each case

d. Do you generally use written orders for denials?

Yes. Generally, written orders are used depending on whether attorney fee is granted.

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

Be prepared at the first supersedeas hearing with exhibits and a Fee Agreement. The Fee Agreement must be authenticated to be admitted into the record either by testimony from Claimant or by a notarized Affidavit from Claimant. However, Claimant must demonstrate his/her understanding of the terms of the Fee Agreement for approval.

f. Describe any other procedures for supersedeas hearings:

N/A

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

The only difference is the statutory requirements of scheduling such hearing.

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

All witnesses must be properly identified in advance of hearing or they will not be allowed to testify. Generally, Claimants and all other fact witnesses are expected to testify at virtual/in-person hearings but exceptions can be made depending on the pending issues. No party shall take a deposition of a factual/lay witness unless approved by Judge. At no time are "Discovery depositions" permitted and if completed without approval of the Judge, the depositions will not be admitted into the record. Expert witnesses will not be required to testify live at hearing. Deposition testimony is allowed in accordance with Rule 131.62 et seq. of the Special Rules of Administrative Practice and Procedure Before Workers' Compensation Judges. The parties shall complete their medical testimony via deposition per the scheduling order unless the parties are granted an extension of time.

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

At this time, testimony is required at virtual hearings. With Claimant Petitions, such as Claim, Reinstatement, Review, Penalty etc, testimony is expected at the first hearing. Defendant Petitions such as Modification, Suspension and Termination etc, testimony is not required at first supersedeas hearing but another hearing will be scheduled for testimony. Medical and vocational evidence is by deposition.

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

Consideration will be given to the geographical location of the witness, the nature of the expected testimony, and the physical needs of the witness.

4. If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice? Witnesses must be identified in a 45-day filing or at a previous hearing or they will not be allowed to testify. If yes, how much notice do you require? The parties are expected to adhere to Rules 131.52(c), 131.53(a) and (e), and 131.54(c).

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

The party who filed their Petition first, generally will be responsible to present medical evidence first. There is one exception; if Defendant files a Termination Petition and subsequently Claimant files a Review Petition and Defendant needs another IME to address Review Petition, I order Claimant to present medical first so as not to delay

the litigation. The Petitioner (first party) will be given 90 days to complete their evidence and the responding party shall have 90 days thereafter or 90 days from the date Petitioner completes its evidence, whichever date is sooner but the record will be scheduled to close no later than 180 days from 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?

The parties are expected to upload the relevant Bureau/WCOA documents regarding the pending litigation.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? Exhibits must be properly uploaded prior to hearing and must be specifically offered and admitted on the record so the parties can address each exhibit at the hearing. The parties should be aware that merely uploading documents to WCAIS does not automatically mean they are admitted into the record. Counsel uploading Exhibits prior to the hearing but never discussing the Exhibit(s) at the hearing will also not be admitted. Exhibits should be uploaded separately. **If before, how far in advance of the hearing must they be uploaded?** The parties are expected to upload exhibits sufficiently in advance of the hearing to afford the parties a reasonable opportunity to view same such that Exhibit can be discussed at the hearing.

8. When will you rule on objections to exhibits?

At hearings if raised, otherwise, if submitted by WCAIS, I will rule before close of the record except for objections made during medical depositions which will be ruled on in my final Decision.

9. What is your procedure for handling discovery disputes?

If the parties request, I will conduct telephone conferences between the attorneys to resolve discovery disputes or other disputes that need immediate attention. Sometimes, I will hold off if a hearing is scheduled in the next several days and discuss with the parties at the hearing.

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

Before the close of the record. Deposition objections preserved in the parties' Briefs and/or Proposed Findings of Fact and Conclusions of Law will not be considered. Any objection not properly preserved is deemed waived.

COMPROMISE & RELEASES (C&Rs)

1. Describe your procedures regarding the review of C&R 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 C&R Agreement?

Amendments. Parties can amend existing Petitions, however, if the parties want additional dates of injury included in a Decision, the parties will only be able to amend a Petition for that date of injury and for any additional dates of injury the parties want included in the settlement, a Petition would need to be filed for those dates of injury.

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?

Yes, C&R hearings will be a virtual hearing so the parties must correctly upload the settlement documents by 3 pm the day before the virtual hearing or by COB the Friday before if it is a Monday hearing. If not timely uploaded or not uploaded correctly, the hearing will be continued and/or the Petition will be dismissed.

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

The parties shall upload settlement documents SEPARATELY as follows:

1. A fully executed Compromise and Release Agreement with the Fee Agreement attached.

2. Act 109 Documents (if necessary):

a. The parties should upload an unredacted copy of Act 109 Documents including Statement and Internet Search;

b. Separately, the parties should upload a redacted copy of Act 109 Documents without Claimant's SSN information (last 4 digits is acceptable);

3. Waiver of Appeal (if requested)

4. Medicare Documents (if necessary)

5. General Release (if necessary)

Any additional Exhibits should also be uploaded as separate Exhibits. If the exhibits are not correctly uploaded, the hearing will be continued and relisted to give the parties time to correctly upload the settlement documents prior to the hearing.

- 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, but will accept the last 4 digits of Claimant's SSN.

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

No, my C&R Decisions are circulated promptly.

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

Compromise and Release Agreements must be specific as to the payment of medical benefits. When the Defendants retain the right to either subsequently fund a set aside account or continue payment of medical bills at the Defendants' sole discretion, the parties are unable to confirm that medical benefits are, in fact, being resolved or what consideration is being provided in exchange for resolving medical benefits. As such, any Compromise and Release Agreement in which the Defendants will subsequently decide whether they intend to fund a set aside, must contain language specifying that medical benefits are being kept open and that the parties must present a second, subsequent Compromise and Release Agreement in order to effectuate any resolution of medical benefits.

STIPULATIONS RESOLVING DISPUTES

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

The parties can submit stipulations for approval provided the parties follow the Rules for completing a Stipulation and address the issues. In addition, the Stipulation must be consistent with the Act and not contrary to the law.

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

Separate Exhibit. A fee agreement, if there is one, should be submitted as part of every litigation regardless of whether counsel is currently receiving a fee. For Stipulations, the Fee Agreement shall be uploaded as separate Exhibit.

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

Yes if the payment to Claimant warrants the Act 109 documentation. Claimant's statement page as well as internet search can be uploaded collectively as one exhibit.

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

Any Exhibit the parties wish to be an Exhibit should be a separate Exhibit with the exception of medical bills that can be uploaded as one exhibit. The Stipulation should be uploaded by itself and the other exhibits 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?

The social security number or other confidential information should be redacted when uploading to WCAIS. However, if the parties upload the Act 109 documents, the confidential information should NOT be redacted as this Judge must confirm there are no child support issues based upon the social security number.

7. Describe any other procedures you have for stipulations:

If the parties fail to provide the Stipulation of Facts within the required time, another hearing will be scheduled and/or the Petition being dismissed

BRIEFS AND PROPOSED FINDINGS

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

WCAIS submission. The parties will be given a trial schedule at the first hearing so the parties should be well aware when the evidentiary record is closing. The parties can upload their exhibits and the evidentiary record will be closed per this Judge's scheduling Order.

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

Once the evidence is completed, the record will be closed, and a briefing schedule will be issued. The time for briefs will depend on each case/issues. Once I close the record, I will not review any additional submissions to the record either by WCAIS or mail. If briefs are not timely received, a Decision could be issued without the briefs being reviewed.

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

I do not have any preference for format regarding briefs. However, I am looking for legal arguments in support or in opposition to the pending litigation. I do not need a mere "summation" of the evidence of record without legal argument.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

Wilkes-Barre but currently I conduct only virtual mediations.

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

At this time, mediations are virtual.

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

Depends on circumstances for each case.

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

No, mediations are virtual at this time. Adjustor/Employer reps are encouraged to attend but MUST be available until the mediation is completed.

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

a. What information do you require in that Statement?

The parties should be aware this is the time to share their legal positions confidentially with me. The statement should include a brief synopsis of the litigation as well as the strengths and weaknesses of your case; what are the issues impeding settlement; and obviously any demands made and authority given for settlement. If Claimant is seeking partials as well as payment of outstanding medical expenses, that information should be known and/or disclosed for a meaningful mediation.

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

No documents must accompany the statement, but if a party believes a document will help facilitate resolution of the claim or an issue, they are encouraged to attach the document with their statement

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

At least forty-eight (48) hours

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? Generally it will not be rescheduled and the parties can schedule a voluntary mediation

If so, how long until it is rescheduled? N/A

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

Yes, if circumstances dictate.

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

Absent an emergency situation, any request for cancellation or postponement should be made as soon as possible, but no later than forty-eight (48) hours prior to the scheduled mediation.

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

Parties should be aware that mediation is not necessary always for global resolution. The parties can also mediate issues of the pending litigation such as to limit the issues the assigned Judge has to decide overall. If there are unpaid medical bills at issue, the parties should be able to identify the bills and amounts at issue. If there is an issue as to the calculation of the average weekly wage/compensation rate, the parties should exchange the wage information prior to the mediation.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes

2. How should the parties request a Voluntary Mediation?

Via WCAIS request

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

Voluntary mediations will be virtual.

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

I will conduct voluntary virtual mediations for parties that are agreeable with me being the mediator regardless of District.

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

Yes. In rare cases, I have agreed to mediate Disputes assigned to me. However, the parties must provide, in writing, that they are agreeable to me serving as the mediator of the case. In addition, the parties must stipulate, in writing, that if the matter does not resolve, the matter will NOT be reassigned to another Judge for a Decision. Instead, the Dispute will remain with me for a Decision.

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?

At this time all mediations are virtual.

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

N/A

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

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

a. What information do you require in that Statement?

Mediation statements should contain a concise statement of the issues at hand, including the positions of the respective parties, and the status of any prior negotiations. Mediation statements should not simply contain a recitation of all of the evidence of record or a mere statement that authority will be in place by the time of mediation.

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

The parties do not have to send any documents, but if the parties believe a document might help assist in the mediation, they are certainly encouraged to attach it.

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

Mediation statements must be submitted at least forty-eight (48) hours in advance of the scheduled mediation.

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

Mediations will be scheduled dependent on availability and parties request.

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

Yes, as circumstances dictate

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?

For voluntary mediation, parties should contact me only when I agreed to conduct the voluntary mediation. If another Judge has agreed to do a voluntary mediation for Disputes that are assigned to me, the parties should follow up with the Judge who agreed to conduct the voluntary mediation.

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

Absent an emergency situation, any request for cancellation or postponement should be made as soon as possible, but no later than forty-eight (48) hours prior to the scheduled mediation.

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

The parties should be discussing resolution of either issues in the pending litigation or a global resolution prior to mediation.

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

Requests for continuance and extensions must be made, and will be decided, in accordance with Rule 131.13 and Rule 131.12, respectively. I am willing to accommodate requests for changes in hearing times if the schedule permits.

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

Case by case as circumstances dictate. However, I conduct conference calls on matters that do not require a formal hearing.

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

I do not accept e-mails. Any e-mails directly sent to me will be deleted without review.

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

If parties are making progress, I will continue the mediation until the matter resolves, or until the parties have reached an impasse. As for hearings, at the conclusion of the scheduled time, I will continue the hearing and relist so the parties can complete testimony without delaying subsequent hearings

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

Contact my assistant or through WCAIS

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.)?

I will cancel proceedings if the Wilkes-Barre Workers' Compensation Office of Adjudication is closed and/or if I determine it is the best interest of public safety to cancel hearings/mediations. However, generally, virtual events will not be cancelled due to weather conditions.