

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 will be a 15-minute pre-trial conference, for the purposes of disclosing discovery by the Moving Party, identifying witnesses, setting a trial schedule and reviewing any unique issues. No testimony will be taken. Discoverable information should be exchanged prior to the first hearing consistent with section 131.61 of the WCJ Rules. For a Challenge Petition, the matter will be listed for a first hearing, at which time brief video testimony may be taken, if requested by the Claimant, on the limited scope of the Petition.

Following the first hearing, it is expected that the parties will complete medical examinations, depositions, and any other necessary procedural matters consistent with the trial schedule set at the first hearing.

a. List any documents required at the first event:

A First Hearing Filing containing the information outlined in 131.52(d) of the WCJ Rules is not required to be filed by the Moving Party, but is encouraged as it could make the first hearing run more efficiently. If such a statement is filed, it should be filed on or before the first hearing as a Letter to the Judge. Similarly, the responding party may, within 45 days after the first hearing, submit a 45-day Filing consistent with section 131.53 of the WCJ Rules.

b. 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 providing information to the Judge that is not intended to be submitted as evidence, including the First Hearing Filing and 45-day Filing should be submitted as a Letter to the Judge.

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

A serial format will be used. A typical schedule would be a 15-minute pre-trial hearing, followed by an interim hearing and then a Final Hearing. Hearings are typically scheduled 60-90 days apart. After the First Hearing, a Status hearing will be scheduled to check the parties' progress and identify any outstanding issues. A Final hearing will be scheduled for the presentation of updated Claimant testimony and any other evidence. If a party wishes to present witnesses, other than the Claimant, at the final hearing, those witnesses must have been identified in prior disclosures consistent with the WCJ Rules and adequate time must be requested.

All non-testimony hearings will be heard virtually. At the present time, all testimony hearings will be scheduled virtually by default. All C&R hearings will be heard virtually as well. If a party wishes to have a live hearing (scar or presentation of a witness), a request for an in-person hearing for testimony should be made at least 30 days in

advance of the scheduled hearing via WCAIS Request (with opposing counsel's position noted). The factors indicated below will be considered in determining whether an in-person hearing request will be granted, but ultimately it will be within this Judge's discretion.

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

Yes – changes to the hearing format will be considered at the Judge's discretion, taking into account whether the proposed changes are agreed upon by the parties and/or for good cause shown.

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

Though ultimately within this Judge's discretion, factors to be considered include but are not limited to the following: the substance and noted reasons for the request, the timeliness of the request, facts of the case, good cause shown, objections to the request, agreement of the parties, and any potential impediments to virtual testimony.

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

Absent good cause shown, all virtual hearings must be conducted with audio and video.

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

I will reschedule once. If a party fails to appear a second time, I will entertain appropriate motions for failure to prosecute or defend.

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 testimony will be heard, unless specifically requested by one of the parties. I generally limit a supersedeas hearing to (15) minutes for the presentation of Supersedeas exhibits. Supersedeas Exhibits should be uploaded into WCAIS prior to the hearing

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

Yes, the responding party will be granted up to 14 days to upload its Supersedeas evidence.

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

If compelling evidence, developed after the supersedeas decision or otherwise unavailable prior to the supersedeas decision is presented, it will be taken into consideration. Parties must request a hearing for reconsideration of supersedeas.

d. Do you generally use written orders for denials?

Yes. Generally, a written Interlocutory Order regarding supersedeas will be issued. If no indemnity benefits are being paid, supersedeas may be denied from the bench.

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

The submission of a signed contingent fee agreement with accompanying evidence establishing the fee arrangement and the Claimant’s understanding of it.

f. Describe any other procedures for supersedeas hearings:

None.

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

For Special Supersedeas in relation to an Employee Challenge Petition, the first hearing will be scheduled for 15 minutes, and video testimony will be heard, but only if a request for testimony is made prior to the hearing, on the limited issues presented by the Challenge petition.

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

No testimony will be taken at the first hearing, as it is a pre-trial hearing. My preference is for Claimant to testify by deposition within 30 days of the first hearing, and then to provide brief, updated testimony at the final hearing. The parties are permitted to take fact witness and medical witness testimony by deposition, but if properly requested a hearing can be scheduled for presentation of any fact witness testimony. Absent extenuating circumstances, video and audio participation is required for all virtual hearings where testimony will be presented, including Compromise and Release hearings. Again, all hearings at the present time will default to virtual, but if a request is made for the presentation of in-person testimony, every consideration will be made to accommodate the request, consistent with my “Hearing Procedures” above. If a party desires to change the manner in which testimony is scheduled to be presented, a WCAIS request should be directed to the Judge indicating the desired change and opposing counsel’s position relative to the request.

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

See #1 above.

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

A change in the above requirements will be given consideration if compelling circumstances are presented.

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? Witnesses must be disclosed in accordance with the WCJ Rules. Absent good cause shown, thirty days’ notice of witness testimony is required, as this is necessary for hearing scheduling purposes. Moreover, counsel are reminded that if an interpreter is required, a proper and timely request (at least 14 days in advance of the testimony) should be made in WCAIS

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

Generally, the party who filed the first petition will be expected to take its medical evidence first. However, if the circumstances warrant, the order of expert testimony may be adjusted.

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 relevant Bureau and WCOA documents, though the Judge may do so as a Judge's exhibit, if no Bureau documents have been uploaded by the parties.

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?

At least 48 hours in advance is preferred, but no later than 24 hours before the hearing.

8. When will you rule on objections to exhibits?

If there is an objection to the submission of the exhibit itself, I will rule on the objection as it is raised at a hearing or may decide at a later date, at my discretion. If it is an objection contained in a deposition transcript, I will rule on the objection in the final decision, if the same is preserved in accordance with the WCJ rules.

9. What is your procedure for handling discovery disputes?

Discovery disputes will usually be resolved through an on the record telephone conference or at a hearing.

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

Preservation of deposition objections must be submitted before the final hearing.

COMPROMISE & RELEASES (C&Rs)

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

I require four submissions to be uploaded, preferably at least 24-48 hours prior to the C&R hearing: 1.) A fully executed, unredacted copy of the C&R, with Fee Agreement, 2) Fully executed, unredacted Act 109 documents, 3) A fully executed, redacted copy of the C&R, with Fee Agreement, and 4) fully executed, redacted Act 109 documents. The parties must label the submissions as either redacted or unredacted.

For the redacted documents, The Social Security number should be redacted. The date of birth should be visible.

Following the hearing the unredacted document will be deleted and the redacted document will be marked and admitted as Joint Exhibit 01 or the next numbered Joint Exhibit. This Exhibit will be circulated with the Decision and Order.

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 are permitted. Additionally, if a party is carving out a petition from the C&R, the parties should let the Judge know as soon as possible, and clearly indicate this in the C&R Agreement.

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, final, fully executed C&R documents, which will be the ones used at the hearing and circulated with the Judge's decision, should be uploaded at least 24-48 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?

At least 24-48 hours before 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?

See #1 above. The redacted copies should redact the Social Security number, but not the date of birth.

f. Will you sign bench orders?

No.

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

If the hearing is virtual, it is strongly preferred that the Claimant appear by video via the TEAMS application. Failure to do so may, in certain cases, require a suspension of the hearing for Claimant to be on video, and delay the issuance of an Order.

STIPULATIONS RESOLVING DISPUTES

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

The Stipulation should be submitted as a Joint Exhibit in WCAIS. The documents should clearly describe the proposed resolution of the pending petitions and adhere to the requirements outlined in section 131.91 of the WCJ Rules.

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?

As a separate exhibit.

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

Any documents that are part of the stipulation should be attached to the stipulation.

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

Any documents that are part of the stipulation should be attached to the stipulation.

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

Claimant's Social Security Number should be redacted prior to uploading the Stipulation to WCAIS.

7. Describe any other procedures you have for stipulations:

None.

BRIEFS AND PROPOSED FINDINGS

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

A final hearing will be held on each case. All depositions are expected to be completed by that date. All documents and other evidence should be uploaded into WCAIS in advance of the final hearing. However, costs of litigation, quantum meruit fee requests and child support documents may be prepared and submitted as exhibits after the final hearing through the WCAIS system.

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

A briefing schedule will be issued at the final hearing. Requests for extensions of time from either party must be made before the expiration of the party's briefing deadline. If the moving party does not timely file for an extension, the responding party should nevertheless file its brief on time. If any brief is not filed with the Court within the mandated briefing schedule, and absent a WCAIS request for an extension, this Judge may issue a Decision without the brief.

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

No specific format is required for briefs. However, I do require findings of fact and conclusions of law. Proposed Findings of Fact should contain a specific cite to the record.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

This Judge will conduct mediations virtually for the Reading Field Office.

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

At the present time, all mediations will be scheduled virtually.

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

This Judge prefers that Counsel participate by video and audio when possible. Also, all parties should join the mediation via the Teams link so break out rooms can be utilized. The call in number should be used as a last resort.

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

At this time, all mediations will be scheduled virtually.

5. Do you require a Mediation Statement? Yes, as it helps make the mediation more effective and efficient. If yes:

a. What information do you require in that Statement?

There is no specific format required. The mediation statement should explain the procedural posture of the case, the factual and medical issues in dispute and the positions of the parties with respect to those issues, the dates of disability, the amount of medical bills outstanding and the amount of any liens or offsets (if known). Also, the parties should know the status of Claimant's Medicare entitlement and should provide any other information the parties deem significant for the evaluation of the case, such as the strength of the parties' respective evidence and any potential anticipated barriers to settlement.

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

None, unless a Medicare Set Aside or annuity quotes have been prepared. In those instances, copies of those documents would be appreciated.

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

Please submit forty-eight (48) hours prior to the event.

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? Only if requested. If so, how long until it is rescheduled? Rescheduling will be subject to availability, which could be in 30 days or more.

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

Yes, for good cause.

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

Please submit any postponement requests within 24 hours from the mediation. The request should be made at least 48 hours prior to the mediation if interpreters or security (for in-person events) have been scheduled for the mediation. Generally, cancellation of a mandatory mediation is determined by the litigating judge, as they have the discretion to decide futility.

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

I prefer that the Claimant be present at mediation, if possible. Counsel should discuss a settlement demand/offer in advance of the mediation. If employer's counsel does not have settlement authority for a voluntary mediation as of the day before the mediation, counsel should advise Claimant's counsel. Additionally, if a resignation or release will be required as part of any settlement, this should be discussed by the parties prior to a mediation.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes.

2. How should the parties request a Voluntary Mediation?

The parties should email my assistant, Heather Skipper (hskipper@pa.gov) to obtain available dates. Once a date and time are confirmed by my assistant, the parties are to request a Voluntary Mediation via WCAIS with the date and time set forth therein.

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

All mediations will be conducted virtually.

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

Yes. I will conduct virtual voluntary mediations for any WCOA District in the Commonwealth of Pennsylvania.

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

Typically, 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, without any special procedures.

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

At the present time, all mediations will be virtual via Microsoft Teams.

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

I require participation by video and audio. Parties should utilize the Microsoft Teams link, and only use the dial in number as a last resort. This is to allow access to the breakout rooms in Microsoft Teams.

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

At the present time, all mediations will be virtual via Microsoft Teams. If an in-person mediation is scheduled, I would entertain allowing one party to be virtual and the other to be in-person.

10. Do you require a Mediation Statement? Yes, as it helps make the mediation more effective and efficient. **If yes:**

a. What information do you require in that Statement?

There is no specific format required. The mediation statement should explain the procedural posture of the case, the factual and medical issues in dispute and the positions of the parties with respect to those issues, the dates of disability, the amount of medical bills outstanding and the amount of any liens or offsets (if known). Also, the parties should know the status of Claimant's Medicare entitlement and should provide any other information the parties deem significant for the evaluation of the case, such as the strength of the parties' respective evidence and any potential anticipated barriers to settlement.

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

None, unless a Medicare Set Aside or annuity quotes have been prepared. In those instances, copies of those documents would be appreciated.

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

Please submit forty-eight (48) hours prior to the event.

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

This is dependent on this Judge's schedule, my assistant may be able to provide an accurate time frame.

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

Yes, if necessary.

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?

Please submit any postponement or cancellation requests within 24 hours from the mediation. The request should be made at least 48 hours prior to the mediation if interpreters or security (for in-person events) have been scheduled for the mediation.

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

I prefer that the Claimant be present at mediation, if possible. Counsel should discuss a settlement demand/offer in advance of the mediation. If employer's counsel does not have settlement authority for a voluntary mediation as of

the day before the mediation, counsel should advise Claimant's counsel. Additionally, if a resignation or release will be required as part of any settlement, this should be discussed by the parties prior to a mediation.

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?

I will conduct conference calls for good cause. I will not conduct off the record conference calls. I prefer they be on the record so they will be scheduled on hearing days.

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

The parties are directed to utilize WCAIS for all communications. Emails will be accepted for emergencies if opposing counsel is copied on the email.

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

Yes, as the ability to conduct other Hearings and events are usually dependent on strict adherence to the scheduled time frames for Hearings and Mediations.

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

Please email my assistant, Heather Skipper at hskipper@pa.gov. Opposing counsel(s) must be copied in any email communication to my assistant.

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 on WCAIS.