

IMPORTANT INFORMATION ABOUT THE PETITION FILING AND HEARING PROCESS

This information is presented by the Workers' Compensation Office of Adjudication (WCOA) as general information only. It is not a substitute for legal advice. Each case involves specific facts which can result in varying legal interpretations.

INITIAL FILING OF PETITIONS

A workers' compensation petition may be filed by an employee, i.e. claimant, or an employer. The employee, i.e. claimant, will generally file a petition to receive weekly benefits to cover lost wages and/or to have medical bills paid. The employer is named as the defendant in the proceedings.

A workers' compensation petition may also be filed by the employer's workers' compensation insurance carrier. Many of these petitions seek to stop or reduce weekly benefit payments and/or medical benefits. That is, the defendant wishes to "terminate," "suspend," or to "modify" payments. A termination petition also seeks to stop payment of medical treatment for your work injury.

When an employer/insurer files a petition, it may also seek supersedeas, which means that the employer/insurer will ask the workers' compensation judge at the first hearing to reduce or stop payment of workers' compensation benefits during the time you and the employer/insurer are submitting evidence on the petition filed by the employer/insurer.

ASSIGNING THE CASE TO A JUDGE

Once a party files a petition, the WCOA assigns it to a workers' compensation judge in a field office. The judge who will hear this case and the office location are listed on the assignment notice. In cases where the parties file multiple petitions involving the same parties and injury date, the WCOA will assign all petitions to the same judge.

ATTORNEY REPRESENTATION

Pennsylvania employers are required to purchase a workers' compensation insurance policy or to obtain approval by the commonwealth to self-insure their own workers' compensation liability. The employer's attorney or their insurer's attorney will represent the employer at the hearings and will handle the legal aspects of the case.

A claimant may choose not to retain an attorney. However, if you decide not to have an attorney, then you must represent yourself. You cannot be represented by someone who is not a lawyer.

Since the employer will have an attorney representing them at the hearings, it is advisable to have an attorney; you may wish to have an attorney represent you. It may be difficult for an unrepresented employee to obtain necessary reports and medical testimony to present pertinent facts of the case, and to rebut the employer's witnesses and exhibits. The workers' compensation judge cannot present your case for you. The WCOA does not provide an attorney for the employee and cannot recommend a specific attorney or law firm. Your local bar association or the Pennsylvania bar association, at 800-692-7375, can provide guidance in obtaining an attorney. The attorneys usually require the employee to enter into a fee agreement.

THEN WHAT

The workers' compensation judge will notify all parties and their attorneys of the dates, times and locations of hearings. Hearings are usually held in the county where the employee lives. They are open to the public. A court reporter takes down all on-record statements, including witness testimony. You may buy a hearing transcript directly from the court reporter.

The party that filed the petition usually has the burden to prove the facts stated in the petition.

At the first hearing, the judge will issue a scheduling order giving deadlines for the parties to submit their evidence. The employee frequently (but not always) testifies at this hearing. The employee's own attorney usually questions the employee first. This testimony may cover such subjects as the employee's job duties, what the employee was doing at the time of the injury, how the injury happened, the nature of the injury, whether there were any witnesses, notice of the injury to the employer, and the employee's medical condition and treatment. The employee can describe his or her own physical condition, but cannot talk about a health care provider's professional opinions. The employer's/insurer's attorney is permitted to cross-examine the employee on his or her testimony and other subjects related to the petition.

The judge also will schedule a mandatory mediation, unless he or she determines that it would be futile. At mediation, the employee and employer representatives talk informally with the help of a workers' compensation judge. The judge works with the parties to reach a voluntary agreement on some or all of their differences. This may mean that the parties agree on the outcome of the case, instead of getting a decision from the judge. If mandatory mediation was initially futile or unsuccessful, the parties may request a voluntary mediation later in the process.

More complex cases may require several hearings and will take longer to complete. A number of factors can complicate a case, including the following:

The employee may need to submit to a health care evaluation by an expert of the employer/insurer's choosing. It will take time for the employer/insurer to schedule the evaluation and get the examiner's report after it has been completed.

Health care provider reports or testimony may be needed by one or both parties. The judge may consider reports only if they meet certain legal requirements. If testimony is necessary, the judge must allow time for both parties to schedule, hold and get transcripts of the witnesses' depositions. These depositions may need to be scheduled months in advance, and sometimes are postponed for reasons outside of the parties' or judge's control.

Some cases require testimony from vocational witnesses. As with health care provider testimony, this is usually done by deposition.

Some cases require testimony from fact witnesses other than the employee. Counsel may take this testimony by deposition or at subsequent hearings.

Each party has the right to file a legal brief when the evidence is completed. The judge will give the parties a specific period of time within which to file their briefs. The case then goes to the judge for decision. The judge will issue a written decision that is sent to all parties and their attorneys.

APPEALS

Parties who disagree with the judge's decision may appeal a final workers' compensation judge's decision to the Workers' Compensation Appeal Board. Interlocutory orders may not be appealed. Parties have only 20 days from the date the judge's decision is circulated to file an appeal.

ACCOMMODATION If you require a special accommodation to participate in a hearing due to a physical impairment, or need a sign language interpreter or an interpreter for your own language other than English without cost, call the Bureau of Workers' Compensation helpline and describe the accommodation.

**Employer Information
Services**
717.772.3702

Claims Information Services
toll-free inside PA: 800.482.2383
local & outside PA: 717.772.4447

Hearing Impaired
toll-free inside PA TTY: 800.362.4228
local & outside PA TTY: 717.772.4991

Email
ra-li-bwc-helpline@pa.gov



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