

PREFERENCES FOR HEARINGS

James Elliott Deputy Workers' Compensation Commissioner

Contact Information:

Phone: Office –Direct line 515-281-8334 FAX -515-281-6501

When at the road venues I will have an office cell phone and provide the number to at least one of the parties in the case before the hearing date.

Email: James.Elliott@iwd.iowa.gov

When a party emails me about a case, all other parties should be copied on the email.

Procedure for deputy notification of settlement:

Phone office direct line for Des Moines and alternative care hearings. For road venues call cell phone number. This is in addition to the normal agency notification procedures.

Continuances:

Requests for continuances should be signed by the claimant and if possible, the employer. Request for continuances based on the fact the claimant is not at MMI may not be granted when there are significant issues which can be decided.

Continuances based on adverse weather reports more the 24 hours in advance of a hearing will generally not be granted.

Hearing Reports:

I expect hearing reports to be completed prior to the time set for hearing. If there are complications which make the use of one hearing report form confusing, consider using a form for each claim file or injury date. Time expended to properly complete a report after the time set for

start of the hearing shall be assessed against both parties equally and reduce the overall length of time allowed for the receipt of evidence.

Preferences regarding exhibits at hearing:

Joint exhibits are encouraged. Claimants shall mark exhibits numerically and defendants shall mark their exhibits alphabetically. Joint exhibits or exhibits from multiple defendants shall be marked differently as needed. Medical treatment records must be organized chronologically by provider and contain consecutive page numbers. All records from each provider shall be grouped together absent good cause for doing otherwise. If video/DVD/CD evidence is to be part of the evidence presentation, the party introducing the materials shall provide the equipment necessary for its presentation.

Parties exceeding the fifty (50) page hearing exhibit limit may be required to provide a chronological index of the documents indicating the date, provider and exhibit number.

Hearing Preferences:

Opening Statements. If the case has unusual facts or legal issues then a short two-minute opening statement can be requested by the parties.

Closing Statements. If the parties are submitting briefs, closing statements are not encouraged. If no briefs are submitted, a brief three-minute closing statement may be presented.

Permission to approach a witness is not required to hand an exhibit to the witness. The attorney should promptly return to their seat after providing the exhibit to the witness.

Objections based upon hearsay, lack of foundation or on the technical rules of evidence or trial procedure will most likely be overruled.

Witnesses:

If there are witness other the claimant and employer, let me know at the start of the hearing. I want to minimize the inconvenience to any witness. If the claimant or defendant expect to call more than two witness let me know at the start of the hearing.

Normally a motion to sequester witnesses will be granted.

Recording of Hearings:

The hearing shall be officially recorded by a certified shorthand reporter retained by defendant(s).

Hearings on motions via the telephone will not be recorded unless one of the parties requests it.

Interpreters:

The defendant has the obligation to provide an interpreter at a hearing. If the defendant has defaulted, the claimant shall provide the interpreter. The parties should confer as to whether the claimant, any witness or party may need an interpreter. Using a well skilled qualified interpreter is in everyone's interest and is required.

Post-hearing Requirements:

Briefs: Always permitted. Unless I order otherwise, all written briefs and argument shall be no more than fifteen pages long, have reasonable margins and at least 12 point type. Unless otherwise ordered, briefs shall be filed with the division within 14 calendar days of hearing. Faxing to 515-281-6501 or mailing on the 14 calendar day is acceptable. Briefs need not recite well settled workers' compensation law.

Transcripts:

I do, on occasion, request a transcript of hearing.

Electronic submission of documents:

My preference is parties do not email me motions, pleadings and other documents unless there is an unusual and urgent time need.

Documents should be faxed 515-281-6501 or mailed. All documents, including emailed documents, need to be properly recorded and processed by workers' compensation office staff.

Special Accommodations:

If any party, witness, court reporter or other individual needs special accommodation to participate or observe any proceeding, inform me as soon as possible so that appropriate accommodations can be arranged.