

General Information On Representing Yourself In a Worker's Compensation Case



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INTRODUCTION

This material is intended to give you some general information on representing yourself before the Idaho Industrial Commission. This information is provided as a general guideline and is not intended to be a detailed analysis of each item mentioned. Also, this information can be used with the Judicial Rules accompanying this guideline to help you understand how a claim may be handled at the Commission.

A Few Things to Consider

1. The materials you have received are not a substitute for legal advice from an attorney.
2. Workers' compensation laws and Industrial Commission rules are complex.
3. Following these instructions will not guarantee a result in your favor.
4. It is a good idea to talk to an attorney before proceeding on your own. You may contact the Idaho State Bar at 208-334-4500 for a referral. Information about obtaining an attorney may also be found at www.isb.idaho.gov.

What is the Idaho Industrial Commission?

1. The Commission is the state agency that manages the workers' compensation system in Idaho to make sure employees, employers, and insurance companies follow the law.
2. The Commission serves as a "court" by hearing and deciding disputed workers' compensation cases.
3. The Commission is not an insurance company. It does not pay out benefits.
4. The staff at the Commission cannot give you legal advice, but are available to answer any procedural questions you may have. By calling 208-334-6000 or 800-950-2110, you will be directed to someone who may be able to help you. More information can also be obtained from the Commission website at www.iic.idaho.gov.

BENEFITS YOU MIGHT RECEIVE

The most common benefits are:

1. Medical treatment: Compensation for medical bills. Medical treatment can include, but is not limited to: payment for emergency medical care, doctor bills, x-rays, medications, hospitalization, crutches, and necessary travel expenses for medical care. These benefits may include past, present, or future medical services.
2. Time loss: Compensation for time off work. If your physician determines that you cannot work because of your job-related injury or disease, you may be eligible for temporary income benefits. These benefits are temporary (either partial or total) disability and usually continue until you are released to return to lighter work or you have reached a point of maximum medical improvement (MMI). MMI is reached when your doctor considers you to be medically stable, and your condition is not worsening or improving.
3. Impairment: Compensation for permanent, physical loss. If it is determined that your work-related injury caused a permanent change to your body, you may be eligible to receive permanent physical impairment (PPI) benefits. You must have a doctor give you an impairment rating to receive PPI benefits.
4. Disability: Compensation for lost wage earning ability. If it is determined you suffer a permanent impairment from your work-related injury that reduces your ability to earn income, you may receive permanent partial disability (PPD) or permanent total disability benefits.
5. Retraining: Compensation for acquiring new work skills. A rehabilitation consultant can help you develop a plan for on-the-job or formal training if approved by the Commission. The Commission provides rehabilitation consulting at no charge to you. Call 208-334-6000 to begin the consultation process.
6. Information: For further information, you may contact a Benefits Analyst at 208-334-6000 or 800-950-2110.

HOW TO GET BENEFITS

1. You should first talk directly with your employer about your work related injury or disease. You should tell your employer about the injury as soon as you can, but not more than 60 days following the injury. Your employer may also want you to talk to a person from the insurance company about your injury. You may be able to come to an agreement on benefits without filing a complaint or having a hearing.
2. If your claim for benefits has been denied, you must file a written complaint with the Commission by a certain time or risk losing all benefits. See: Rules 3 and 4, JRP. Call 208-334-6000 or 800-950-2110 to obtain the proper forms; or you may obtain a complaint form from the Commission's website at www.iic.idaho.gov.
3. You may request mediation discuss your claim for benefits, free of charge. You can contact the Commission by calling 208-334-6000 or 800-950-2110. Mediation can occur at any point in the process. See: Rule 17, Judicial Rules of Practice and Procedure (JRP).
 - Mediation is a meeting where a neutral mediator, employed by the Commission, meets with you, your employer and/or its insurance company, and possibly their legal counsel. The mediator tries to help the parties settle the claim, or other disputes, in a fair manner. Mediation cannot take place unless all parties agree to participate.
 - You are not required to have an attorney to participate in mediation. You may bring a friend or spouse to assist you.
4. You may ask for a hearing by filing a request with the Commission. See: Rule 8(C), JRP. When filing your request, please provide all information set forth in the Rule. Please note the case number and case name on your request so that Commission personnel can easily locate your case file.

DISCOVERY

Purposes of discovery

1. The parties share, or discover, as many facts as possible from the other party prior to hearing.
2. It helps develop the issues to be decided by the Commission.
3. It promotes settlements because the parties are able to determine the strengths and weaknesses of the case.
4. It prevents surprises at hearing.

Methods of discovery

1. You may obtain information from the other party in several different ways by: written questions; requests for documents; and interviews under oath. See: Rule 7, JRP.
2. The Hearing Officer may conduct a pre-hearing telephone conference with the parties to further explain the hearing and discovery process and/or the possibility of mediation.
3. If you have not already signed a Medical Release Form on the Complaint, you will likely be required to do so.
4. You will likely be required to answer certain written questions before the hearing. These are called interrogatories. You may also ask questions of the other party in writing.
5. You may be required to provide certain documents to the other party. Likewise, you may request documents from the other party.
6. You may be called upon to answer oral questions under oath before the hearing. This is called a deposition. You may have depositions of other parties taken as well.
7. You must disclose and exchange all the information and documents you expect to present at the hearing at least 10 days before the hearing. See: Rule 10, JRP.

PROVING YOUR CASE

As the Claimant, you must prove that the medical condition for which you are seeking benefits was caused by a work-related accident or disease. The proof at hearing must establish that more likely than not you had a work-related accident causing injury, or suffered an occupational disease. You may want to read the definitions under the Workers' Compensation Law. Idaho Code, § 72-102.

1. You need to submit to the Hearing Officer medical records and/or a letter from your doctor stating what happened at work that probably caused or permanently aggravated the condition for which you seek benefits.
2. Medical records must be submitted to prove you are entitled to medical care, income, or impairment benefits. These medical records will be used as exhibits at hearing.
3. A vocational consultant may give an opinion on your various work opportunities. You may contact the Commission at 208-334-6000 for information on this matter.
4. You may have witnesses testify on your behalf. You may testify yourself, but you cannot give medical opinions – only a doctor can give medical opinions.
5. The Commission will sign subpoenas to require the attendance of witnesses at hearing, if you provide their names and addresses. Make sure all witnesses are properly served with subpoenas. Generally, witnesses will appear voluntarily. See: Rule 9, JRP.
 - Any person at least 18 years old and not a party to the proceedings may “serve” or give the subpoena to the proposed witness. You cannot do this yourself. You must pay a witness fee and mileage if requested by a witness. Call your local District Court Clerk to find out the amount of the fees.
6. Any exhibits offered into evidence will have to be marked with a number or letter (for example, “Exhibit 1” or “Exhibit A”) and be in order to explain the history of your case. This helps the Commission to better understand your claims. See: Rule 10(C), JRP.

THE HEARING

The basics

1. A hearing is a process similar to a trial presided over by a judge. Hearings are held by a Referee or the Commissioners (Hearing Officer). All evidence must be presented at the hearing with the exception of testimonial medical or vocational expert evidence, which is usually presented by way of depositions after the hearing. See: Rule 10(E), JRP.
2. The hearing will likely take place near the town where you live.
3. If you need an interpreter to assist you, an interpreter will be provided at no cost to you if you notify the Commission in your request for hearing.
4. Please read the following rules carefully:
 - Rule 3 – Pleadings
 - Rule 7 – Discovery
 - Rule 10 – Hearing Procedure

What to expect at hearing

1. You will usually have your hearing after you have exchanged information through the discovery process as set forth in Rule 7, JRP. By this time you must have exchanged exhibits 10 days before hearing, according to Rule 10, JRP.
2. It is likely that an attorney will represent your employer and its insurance company.
3. The Hearing Officer will ask you for your documents and exhibits and may discuss other matters before the hearing starts.
4. Be prepared to give the Hearing Officer the exhibits you want him/her to consider in deciding the case. If you do not have your exhibits entered into the record, they cannot be considered when deciding the case.

Conduct at hearing

1. The Hearing Officer should be addressed as “Your Honor” during the hearing.

2. Be respectful to everyone involved in the case (for example, the other party, court reporter, Hearing Officer, witnesses).
3. Do not interrupt and do not “argue” your case until the Hearing Officer asks you to present your response or case.
4. Keep in mind what benefits you want to receive as the result of the hearing and ask for those benefits. You must prove you are entitled to receive each type of benefit you request.

Hearing process

1. When the hearing begins, the Hearing Officer will introduce the name of the case, state who is present, and go over the issues to be decided. Once that is done, the Hearing Officer will receive exhibits and resolve any other questions. You and the other party may object to each other’s exhibits on legal grounds. Remember that exhibits must be shared with the other party at least 10 days before hearing. See: Rule 10, JRP.
2. The Hearing Officer will hear testimony from witnesses taken under oath, or affirmation, by a court reporter. You normally testify first by telling the Hearing Officer the facts about your accident, injury, or disease. The attorney for Employer may then question you. Please listen to and answer all questions to the best of your ability.
3. After you testify, you may call other witnesses to testify on your behalf. Be prepared to ask them questions about your claim for benefits. The attorney for Employer may also ask questions of your witnesses.
4. When you finish with your witnesses, the other side may call witnesses. Be prepared to ask them questions about your claim for benefits. Ask questions of the witnesses – do not make statements.
5. After the other side calls all witnesses, you must decide whether you want to present oral or written arguments about your claim. This is your opportunity to tell the Hearing Officer why the facts show you should get your benefits. It is a good idea to prepare your argument ahead of time so you know what facts you want to emphasize.

AFTER THE HEARING

1. You may ask questions of certain witnesses, usually doctors or vocational experts, who did not testify at the hearing. The witnesses must answer the questions under oath. This is called a post-hearing deposition. See: Rule 10(E), JRP.
2. If you are submitting a written argument to the Commission, it should state why you should receive the benefits you are seeking. There is no particular form that this statement needs to follow, but you are encouraged to make a good faith effort to support your argument with references to the hearing transcript or exhibits. See: Rule 11(C), JRP. The Commission needs to know that the facts on which you rely are in the record and where to find them. You cannot bring up facts or opinions that were not admitted into evidence at the hearing.
3. The Commission will give you a schedule to follow regarding when to submit your final written arguments. Follow any deadlines carefully.
4. The Commission will issue a decision based on the evidence and testimony submitted into the record.
5. Be aware that benefits may be subject to reduction by other State or federal agencies.

WHAT IF I DISAGREE WITH THE DECISION?

1. You may ask the Commission to reconsider its decision within 20 days of the date of the decision. The request to reconsider must be in writing and include reasons for the Commission to change its decision. See: Rule 3(G), JRP.
2. If you do not request reconsideration, or your request is denied, you may appeal the ruling to the Idaho Supreme Court within 42 days after the date of the final decision. See: Idaho Code § 72-724 and Idaho Appellate Rules, especially Rules 11, 17, 23, and 24.

HOW TO CHANGE PHYSICIANS

1. Once you have a treating doctor, only a referral by that doctor, an agreement with your employer, or an order from the Commission will allow you to properly change to another doctor. You might also be able to change doctors by talking with your employer's insurance company.
2. In order to change doctors, you must have reasonable grounds. Simply disliking your first doctor is not a good reason.
3. To obtain an order from the Commission, a separate proceeding is necessary to change from your present doctor to another doctor.
4. Please read all of Rule 20, JRP, before attempting to change doctors.

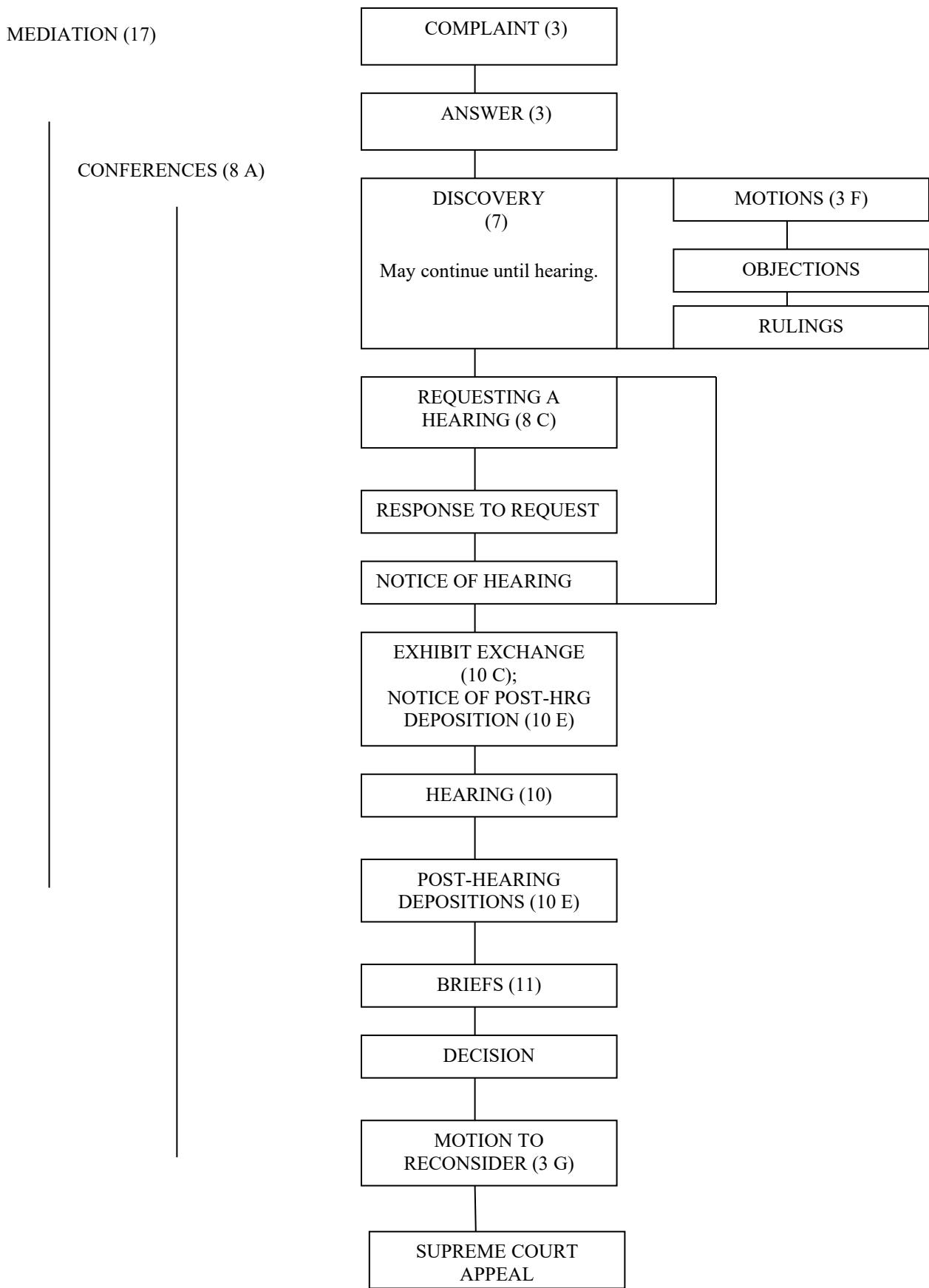
TIPS FOR SUCCESS

1. Do your best to understand the information provided by the Commission.
2. At a minimum you should:
 - Read this material.
 - Read and follow the Judicial Rules (JRP) mentioned in this pamphlet. A set of these rules should be mailed with this material. It is a good idea to review all the rules, even those not mentioned in this pamphlet.
 - Prepare your case to the best of your ability.
 - Follow Commission orders.

MY CHECKLIST

- I understand it would help me to talk with an attorney about my case.
- I have read the Judicial Rules of Practice and Procedure (JRP) and this material.
- I understand I must prove I am entitled to the benefits I am seeking.
- I understand I must work on my case, or it may be dismissed.
- I have gathered all the information I need to try and prove my case:
 - I know who my witnesses are and what they will say.
 - My witnesses know I will need their testimony at hearing. Otherwise, I must ask the Commission to require their appearance at the hearing.
 - I have the right documents, including:
 - Medical records
 - Medical bills
 - Doctor statement(s) stating my work caused my condition
 - Doctor statement(s) detailing the percentage of impairment I have sustained
 - Other records as needed, such as work, vocational or rehabilitation records
- I understand the requirements of Rule 10, JRP, about sharing and submitting evidence.
- I have answered all written questions and have sent all documents requested by the other party.
- I have talked to the other side about settling my case through mediation or other agreement.
- I have requested a hearing to keep my case moving along.

FLOW CHART OF A WORKERS' COMPENSATION COMPLAINT PROCESS



*Many of the above procedures have time limits. Please read the noted rules carefully.

*Citations to Judicial Rules of Practice & Procedure appear in parentheses.