

**Wisconsin Association of  
Worker's Compensation Attorneys**



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December 16, 2009

Ms. Frances Huntley-Cooper, Administrator  
State of Wisconsin  
Worker's Compensation Division  
PO Box 7901  
Madison, WI 53707-7901

RE: Prehearings

Dear Ms. Huntley-Cooper:

The Wisconsin Association of Worker's Compensation Attorneys Association has learned of two impending changes within the Division that we believe warrant further consideration. We understand that Prehearings will now be scheduled in early morning and late afternoon slots and that the Division intends to begin scheduling Prehearings on all bad faith cases.

The Division would expend resources unnecessarily by holding a Prehearing on every bad faith claim. We believe a better solution to anyone's concern that the Respondent doesn't fully understand the nature and extent of the Applicant's claim (or that the Applicant does not fully understand or know the defenses being offered by the Respondent) is for either or both party to request a Prehearing, if the parties determine same is necessary. If either party wants a Prehearing, one should be granted. If neither does, the Division's (and the parties') resources have been saved.

Our Association is concerned that the scheduling of Prehearings in the early morning or late afternoon slots will present multiple problems for worker's compensation attorneys and their clients. The following are examples:

1. Increased costs for respondents and their defense attorneys, who will be required to travel to a hearing location the night before a Prehearing and stay overnight when an early morning Prehearing is set. A high percentage of defense attorneys, company representatives and insurer representatives must travel some distance to hearing sites which are generally near the applicant's residence.
2. Prehearing conferences late in the afternoon will cause undue hardship for attorneys and applicants with young children in school or after school care (which is generally not available after 5:30 p.m.).

3. If an afternoon Hearing does not conclude within the time allotted, a scheduled Prehearing in the last half hour of the day will cause the need for a continued Hearing when the Hearing might well have concluded by utilizing the Prehearing time (and perhaps even some spill over time when everyone agrees to work beyond the time period scheduled for the hearing; not an uncommon occurrence for afternoon Hearings).
4. Prehearings scheduled between 11:00 a.m. and 1:30 p.m. allow flexibility for all of the parties and their attorneys. Frankly, many Prehearings require more time than the one-half hour allotted. By scheduling the Prehearings during the above referenced time period, an ALJ may devote the time necessary to provide full explanations to unrepresented applicants, if necessary. In addition, with this flexibility, the ALJ may be able to facilitate settlement of the case.

Unless the Division is facing an unusual and substantial back log of cases in need of Prehearings, we would ask that the Division return to its prior system of scheduling Prehearings, from 11:00 a.m. to 1:30 p.m. If for some reason our recommendations cannot be implemented, we would request the opportunity to meet with you so we may discuss these matters further.

Finally, we would also encourage the scheduling of Prehearings in blocks for the same defense firms to best maximize their efficiency.

Thank you for your kind consideration. I look forward to hearing from you.

Sincerely,

William Wulf, President  
Wisconsin Association of Worker's  
Compensation Attorneys on Behalf of the  
Executive Committee and Board of Directors of  
WAWCA