

State of South Carolina

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Workers' Compensation Commission Advisory Notice

Procedural Clarifications

April 3, 2020

The following are clarifications to procedures utilized by the Commission since the Governor's Executive Order 2020-11 issued on March 19, 2020.

Mediation

Under the current critical conditions that exist in our world today mediation is a mechanism available to all parties to resolve differences quickly and efficiently. The Commission strongly encourages parties to give serious consideration for mediation in all cases by any means available. In cases that mediation is required, the parties must proceed telephonically or via video conferencing if available.

Live Hearings Cancelled, Use of CourtCall

All face-to-face in person hearings scheduled through April 30, 2020 are suspended, except for emergency situations, which will be determined on a case by case basis. The Commission has established general guidelines for each Commissioner to use to best manage their respective docket using CourtCall, telephone and other electronic methods. The Commission will reassess the current practice on May 1, 2020. The commissioners have committed to learning and using the Court Call system and other remote access technology to allow the commission to remain as functional as possible during this crisis. If either party objects to the use of CourtCall or other electronic method, the matter will be reset at the discretion of the jurisdictional commissioner on the nearest possible date. The jurisdictional commissioner will retain jurisdiction of the case.

Pre-hearing Telephone Conference

The Commission will schedule pre-hearing telephone conferences with the attorneys to assist in the resolution of any pending case. A pre-hearing telephone conference should be held for all scheduled hearings within one week of the scheduled hearing date.

Emergency Hearings

The commissioner has the discretion for establishing criteria for which cases will be given priority for the scheduling of live hearings. The commissioner will consider the circumstances of each case in determining if an emergency situation exists.

Exchange of Documents

The Commission will accept as filed and the parties will exchange all documents by email following the procedures set forth in the paragraph entitled Filing of Pleadings, Motions, and Settlements in a timely manner as is required by the South Carolina Workers' Compensation Act and the Commission's regulations.

Filing of Pleadings, Motions and Settlements

Pursuant to the Advisory Notice dated March 21, 2020 all pleadings, motions, settlements and other claim related documents that require a filing fee and otherwise cannot be submitted electronically must be submitted to the Commission by the US Postal Service. All responses to pleadings and other documents not requiring a filing fee must be emailed to judicialanalysts@wcc.sc.gov. Form 70 Mediator Report must be emailed to mediation@wcc.sc.gov. Consent Orders resolving a hearing should be emailed to the commissioner's Administrative Assistant. Personal delivery of documents will be accepted only in extreme circumstances. Commission staff will process the filings according to existing processes and procedures. It is not necessary to send a copy of a response to a pleading and other document not requiring a filing fee emailed to the Commission by the US Postal Service. Doing so creates additional limitations on the efficiency of processing claims due to the limited staff working on site.

Appellate Hearings

The Commission has cancelled Appellate Hearings scheduled in April 2020. The Commission will establish a system to allow appellate hearings after May 1, 2020 using appropriate remote access technology, if available for the panel and litigants. Briefs and documents will be filed and exchanged by email. If a party objects, then the appellate hearing will be rescheduled sua sponte without prejudice as soon as this crisis allows.

Fee Petitions

Fee petitions and clincher agreements accompanied by the filing fee should be mailed to the Commission using the US Postal Service. The Commission has established procedures to process these submissions as efficiently as possible.

Pro se Claimants

The jurisdictional commissioner will consider the circumstances of each case to allow a pro se claimant to use electronic remote access technology for clincher settlement conferences. If a party objects, the matter will be reset at the discretion of the jurisdictional commissioner for an in-person hearing on the nearest possible date. The jurisdictional commissioner will retain jurisdiction of the case.

Informal Conferences

Informal Conferences will be conducted via telephone. The injured worker will be required to provide government issued photo identification electronically to the insurance carrier representative and the mediator conducting the Informal Conference.

Telemedicine

To reduce the potential exposure to the coronavirus, the Commission encourages the use of telemedicine when possible for the provision of medical care to the injured worker.

Please continue to monitor our website www.wcc.sc.gov for updates and direct any questions or comments to

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