

Mediation Letter - Before

The Board has scheduled a mediation conference regarding your worker's compensation claim. Please read the attached notice for information about the date, time and place of the conference, and whether you should appear in person or by telephone.

Purpose of Conference: (1) To discuss the appeal. (2) To clarify the issues. (3) To share information about the appeal. (4) To identify and explore settlement options. This is not a hearing. In addition to you and the judge, a member of the Attorney General's office may appear to represent the Department of Labor and Industries and/or your employer or their representative may also participate. If you have any reports or letters from your doctor created after the date of the order under appeal, please send copies to the Department's and/or employer's representatives, or send them to the judge and the judge will forward them to the Department and/or employer. Otherwise, bring them with you to the settlement conference.

Judge's Role: The mediation judge will assist the parties with their discussions, be a resource to the parties, and answer questions. The judge will not decide the case for the parties.

Role of Board: The Board of Industrial Insurance Appeals is an independent state agency. The Board is not part of the Department of Labor and Industries. The Board's role is to decide in a fair and impartial matter whether the Department decision is correct.

Confidentiality: Settlement discussions are confidential, and generally are not admissible as evidence in subsequent proceedings.

Attorneys: You are not required to have an attorney represent you in proceedings at the Board. You may not need an attorney to negotiate an agreement, although the assistance of an experienced attorney is usually helpful. I strongly recommend that you find an attorney to represent you if the appeal is sent to a hearing judge for disposition.

Board Hearings and Burden of Proof: Hearings at the Board are similar to trials in Superior Court. The rules of evidence and civil procedures apply. As the appealing party, you have the burden of proving, on a more probable than not basis, that the Department's decision/order is incorrect. You must present medical testimony to obtain the following relief: allowance of claim or acceptance of medical conditions, reopening of the claim for aggravation of an industrially related condition, further proper and necessary medical and surgical services, payment of unpaid medical bills, time loss compensation, permanent partial disability, and/or permanent total disability (pension).

Jurisdictional History: The Board sent you a Jurisdictional History on yellow paper attached to the order granting your appeal. The history does not list or refer to everything in the Department's file. The judge will review the history with the parties and ask you to agree that the history is accurate and/or to amend the history to correct any problems. Please bring your copy of the history with you to the settlement conference.

If you have any questions about the settlement conference, would prefer to appear by telephone, or are unable to attend the conference as scheduled, please call _____, judicial scheduler, at (800) 442-0447 or (360) 753-6823, extension _____, as soon as possible. Otherwise, the judge will answer your questions at the settlement conference.