

EMERGENCY ADMINISTRATIVE BULLETIN 7

To: All Parties
From: Omar Hernández
Re: Dispute Resolution Re-Opening Procedures
Date: September 16, 2020

As you are aware, the Department of Industrial Accidents (DIA) will reopen its offices to the public on September 28, 2020, to resume limited in-person hearings. Due to the pandemic crisis, Dispute Resolution has had to make modifications to its processes, procedures and protocols. As we begin to schedule these first “in person” proceedings since the start of the pandemic, I want to stress that if a case must be tried, the parties must be prepared to proceed on the scheduled Hearing date. Due to all the moving parts that must be taken into consideration such as scheduling stenographers, adhering to the guidelines promulgated by the Governor’s office, ensuring that the Hearings in the queue are being heard and the cleaning of the courtrooms, there will be no last minute requests for a “short continuance” be it for settlement talks, witness unavailability, conflicts and so forth.

If this case does not go forward on the scheduled Hearing date, the case will return to the list of cases waiting to be tried. Therefore, this would be the appropriate time for the parties to discuss settlement or an agreement.

Pre-Hearing Conferences:

The DIA will be implementing mandatory Pre-Hearing Conferences for cases scheduled for Hearings. The parties will be required to mark-up *their* Pre-Hearing Conference to occur within two weeks of *their* receipt of the Hearing notice.

If they do not attempt to schedule the Pre-Hearing Conference to occur within that two week window, the Hearing may be rescheduled by the Administrative Judge. The parties shall submit the Joint Pre-Hearing Memorandum at the Pre-Hearing Conference and be prepared to discuss the following preliminary issues.

- Report on the status of negotiations
- Identifying claims/defenses,
- Stipulations;
- All Motions;
- Identification, anticipated testimony and time needed for testimony of each expected witness.

The Insurer’s and Employee’s Hearing memorandum, and the Employee Biographical Data sheet shall be received by the Administrative Judge no later than 5 days prior to hearing; (via email in pdf format). Any medical records and any agreed to exhibits must be bookmarked and

received by the Administrative Judge no later than 5 days prior to hearing; (via email in pdf format). The parties shall schedule the deposition of any opinion witness prior to commencement of the Hearing. Please note that the Administrative Judge may rescheduled the Hearing if these steps are not followed.

Testimony via a virtual platform may be allowed for certain witnesses/persons who for COVID-19 reasons are not able to attend in person. **It will be up to the Administrative Judge to decide whether this option is appropriate.**

Hearings:

- A limited number of courtrooms will be used to conduct in-person hearings. All other courtrooms will be marked “CLOSED” and public entry is prohibited.
- The parties **must notify the judge by email forty-eight hours** in advance to advise the judge whether or not the Hearing is going forward. During the hearing, only the attorneys and witnesses in that particular case will be allowed in the room.
- Please note that the courtrooms have a maximum capacity for the number of persons allowed at one time. For those cases where the number of persons exceed the capacity limit, the witnesses will be required to wait outside of the building until they are called in to testify.
- Each courtroom will be cleaned after each Hearing session.
- Number of Open Courtrooms Per Day:
 - Boston – 3
 - Fall River – 2
 - Lawrence – 2
 - Springfield – 2
 - Worcester – 2
- Number of Hearings Per Day:
 - One morning session in each courtroom
 - One afternoon session in each courtroom

SUMMARY OF THE TIMELINE FOR THE NEW HEARING PROCEDURES

1. The parties receive the Hearing notice.
2. The parties shall mark-up *their* Pre-Hearing Conference to occur within two weeks of *their* receipt of the Hearing notice.
3. The parties schedule depositions.
4. The parties attend a virtual Pre-Hearing Conference and submit their Joint Pre-Hearing Memorandum.
5. Five days before hearing, the parties shall electronically submit the Employee's hearing memorandum, the Insurer's hearing memorandum, the Employee's biographical data sheet and all medicals to be submitted.
6. The parties shall contact the Administrative Judge *by email* **forty-eight hours** prior to the Hearing to confirm that the case will be going forward.