

CLAIMANT'S GUIDE TO THE CONCILIATION PROCESS

Forms and additional information relating to workers' compensation may be obtained by contacting the nearest office of the Workers' Compensation Board or by visiting the Board's web site at www.wcb.ny.gov.

1. Conciliation – The Board places into conciliation claims that are accepted by the employer or insurance company, but which may have issues that are unresolved. The purpose of the conciliation process is to provide an informal and prompt resolution of the claim based upon the cooperation of both parties: the injured worker and the insurance carrier/self-insured employer.

2. Conciliators – The Board employs Senior Attorneys to act as Conciliators on a claim. Upon receipt of a claim, the Conciliator will review all documents in the electronic case file, identifying the issues where there may be a disagreement or misunderstanding between the parties. If necessary, the Conciliator will communicate with all the parties in order to gather the documents, forms, or information necessary to propose a resolution of the claim.

3. Board's Electronic Case File – All documents submitted to the Board on any claim are maintained in its electronic case file. This electronic file can be viewed by any party to the claim. For information on how to view the file, contact any Board office.

4. Legal Counsel – Injured workers may represent themselves in matters before the Board or may retain legal counsel to represent them. Legal counsel may represent injured workers during the conciliation process. If an injured worker wishes to retain representation, conciliation will be postponed until counsel has been retained.

5 Fees for Legal Counsel -- If legal counsel is retained, his/her fee for legal services will be reviewed by the Board and if approved will be paid by the insurance carrier/self-insured employer out of any compensation benefits due. Injured workers should not directly pay anything to legal counsel representing them in a compensation case.

6. Proposed Conciliation Decision -- Once the electronic case file has been

thoroughly reviewed, the Conciliator will propose a decision resolving all issues and send it to the parties, or, if it is necessary, will schedule a meeting at the Board with the parties and send to them a Proposed Decision after the meeting.

7. Conciliation Meetings – The Conciliator will schedule a meeting at the Board with the parties to discuss the claim only if it is necessary. If a claimant is not represented by legal counsel at the meeting, the Conciliator will explain that the claimant has a right to obtain counsel and that the meeting can be postponed until counsel is obtained. If an unrepresented claimant declines to participate in the conciliation process, the meeting will end and the case will be transferred to the formal hearing calendar. If the unrepresented claimant agrees to continue, he/she will be asked to sign a form giving consent to continue. If the parties cannot reach an agreement at the meeting, the Conciliator, at his or her discretion, may then hold a Pre-Hearing Conference and continue the case for resolution before a Law Judge, making appropriate directions to the parties in order to aid in the resolution of the issue(s).

8. Objection Period for Claimants Represented by Legal Counsel – Once a Proposed Decision has been filed, the parties have 30 days from the filing date to review and consider it. During the 30 day period, any party may submit to the Board any written comments regarding the findings or awards made in the Proposed Decision, or may request a meeting with the parties at the Board if one has not been held. If there are no written comments or requests for a meeting within the 30 day objection period, the Proposed Decision becomes final.

9. Objection Period for Claimants Not Represented by Legal Counsel – Once a Proposed Decision has been filed, the parties have 30 days from the filing date to review and consider it. During the 30 day period, any party may submit to the Board any written comments regarding the findings or awards made in the Proposed Decision, or may

request a meeting with the parties at the Board if one has not been held. If there are no written comments or requests for a meeting within the 30 day period and a Workers' Compensation Law Judge has approved the Proposed Decision, the parties will be notified that the decision has been approved. Upon notification that the Proposed Decision has been approved, the unrepresented claimant has 10 additional days from the date of notification to review and consider the Proposed Decision. If the unrepresented claimant notifies the Board in writing during the 10 day period that he/she withdraws from the Proposed Decision, the case will be transferred to the regular hearing calendar. If no notification of withdrawal is received during the 10 day period, the decision becomes final.

10. Objections Received During Objection Period – If an objection to the findings or awards outlined in the Proposed Decision is received by the Board during the 30 day objection period, the Conciliator will analyze the objection and attempt to conciliate an agreement acceptable to the parties either by contacting the parties or by scheduling a meeting. If conciliation is unsuccessful, the case will be referred to the hearing process which may include a pre-hearing conference.

11. Final Decision - Payment of the Award – The insurance carrier/self-insured employer must pay the award within 10 days from the date the Proposed Decision becomes final. If payment is not made within the 10 days, the Board may assess a penalty of \$500 against the carrier/self insured employer, \$300 of which will be paid to the injured worker.

12. Appeals – Proposed Conciliation Decisions which have become final can not be appealed by any party.

13. Medical Care -- Medical treatment needed because of the work-related injury or illness is provided to an injured worker no matter how short or how long the length of the disability. Should additional medical care or benefit payments be required after the Proposed Decision becomes final, notify the Board and

the Conciliator will again review the claim, taking what further action is indicated.

14. Confidentiality – Except for the purpose of processing a claim or resolving issues within a claim for compensation benefits, workers' compensation records are confidential. Injured workers can authorize the release of compensation records by completing form OC 110-a (Claimant's Authorization to Disclose Compensation Records).

15. Fraud / Disqualification – Any person who knowingly makes a false statement for the purpose of obtaining workers' compensation benefits could be subject to fines, imprisonment, and/or disqualification from receiving workers' compensation benefits.

The information provided is a general and simplified presentation of provisions and procedures relative to the Workers' Compensation Law. It is not a substitute for the law or for legal advice.