



Oregon

Tina Kotek, Governor

Workers' Compensation Board

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Mediation of Workers Compensation Disputes

Mediation can be a positive alternative to litigation. Mediation saves time and expense, removes uncertainty, and allows the parties to create a resolution of their case in a manner that serves their best interests.

In response to the continuing interest in mediation, the Workers' Compensation Board offers the services of Administrative Law Judges (ALJs) trained in the formal mediation process. The Board does not charge any fee to the parties for providing mediation services.

Many types of cases have been found to be well suited for mediation: mental stress cases; complex occupational disease claims; cases with old dates of injury that have both accepted and denied conditions; cases that also include claims under the Americans with Disabilities Act, civil rights claims with the Oregon Bureau of Labor and Industries, and claims with other employment-related issues; cases with permanent total disability claims; any other case that the parties consider appropriate for settlement.

The Board's mediation program is voluntary; all parties must want to mediate the dispute. If a case does not settle at mediation, it is simply put back on the hearing docket. The ALJ who mediates the case will not preside at the hearing, and there is no communication between the mediator-ALJ and the trial ALJ.

If you decide you wish to pursue mediation, we will schedule the mediation as soon as possible, consistent with the schedules of the parties, their representatives, and the ALJ-mediator. Mediations are usually held at the Board office (Portland, Salem, Eugene, or Medford) closest to where the parties are located.

The usual attendees at a mediation include the claimant, the claimant's attorney, a representative for the employer/insurer, the attorney for the employer/insurer and anyone else with ultimate settlement authority. In addition, the claimant's spouse or a close family member may attend.

A case that is taken off the hearing docket for mediation is treated as a postponed case. If the mediation precedes the hearing date, then the case will stay on the hearing docket unless it settles.

Again, no party to a workers' compensation case is required to pursue mediation; however, once all of the parties have expressed their desire to try mediation, it is expected that all parties will approach the mediation in good faith and commit to working toward resolution. Depending on the complexities of the case, a mediation may take several hours, all day, or even longer to achieve resolution. The ALJ-mediator is committed to stay with the process as long as the parties are making progress.

If you are interested in pursuing mediation of your case, please contact, through your attorney if you are represented, the Administrative Assistant to the Presiding ALJ, at the Board's Salem office (503-934-0104).