

EXPEDITED CLAIM SERVICE CASES

vs.

EXPEDITED HEARING CASES

vs.

EXPEDITED REMEDY CASES

1. **EXPEDITED CLAIM SERVICE (ECS) CASES:**

Expedited Claim Service is to provide for prompt, informal disposition of claims. ORS 656.291.

What qualifies a case for Expedited Claim Service?

- When the only unresolved matters do not include compensability of, or responsibility for, the claim and the amount in controversy, exclusive of penalties and/or related attorney fees, is \$1,000 or less; or
- The matters unresolved are attorney fees or penalties; or
- The request is for an expedited hearing to appeal a denial under ORS 656.262(15) for a **worker's failure to cooperate** in a claim investigation.

Requesting Expedited Claim Service:

- A request for an ECS hearing can be made using WCB's Request for Hearing form;
- If approved, WCB will schedule the ECS hearing to take place within 30 days from the date WCB received the request for Expedited Claim Service.

2. **EXPEDITED HEARING CASES:**

If it is alleged that the claimant is suffering a financial hardship or a medical hardship, the claimant may file a written motion asserting the hardship and requesting an expedited hearing. The motion should be filed with the Assistant Presiding Administrative Law Judge (APALJ) with copies to the insurer. OAR 438-006-0078.

To qualify for “Financial Hardship”:

- Claimant cannot be receiving compensation, regular wages, or other income in lieu of wages comparable in amount to compensation;
- The supporting evidence must include an affidavit from claimant or a family member establishing such hardship.

To qualify for “Medical Hardship”:

- It must be shown that claimant’s condition will permanently and irreversibly deteriorate if the hearing is scheduled in the ordinary course of business and that such deterioration may be avoided by scheduling the hearing at an earlier date;
- The supporting evidence must include a medical report from the attending physician establishing the medical hardship.

Requesting an Expedited Hearing:

- Submit a motion for expedited hearing with accompanying supporting evidence to the APALJ;
- The requesting party is required to provide opposing counsel’s position (or the party’s position if the party is not represented by counsel) regarding the motion;
 - **If opposing counsel concurs with the motion:**
The requesting party’s motion must include three mutually agreeable dates for an expedited hearing.
 - **If opposing counsel objects to the motion or has no comment:**
The requesting party shall arrange a conference call with the APALJ by providing the JA for the APALJ with three mutually agreeable dates and times for the conference call.
- A regularly docketed hearing will be scheduled while the motion for expedited hearing is pending;
- If the APALJ approves the motion, the original hearing date will be canceled and an earlier expedited hearing date will be scheduled;

- If the motion is denied, the hearing shall be held as originally scheduled or in the ordinary course of business if there is no pending hearing date.

3. EXPEDITED REMEDY CASES:

If it is alleged that the self-insured employer or insurer has **terminated** temporary disability compensation without legal basis, the claimant may file with the Hearings Division with copies to the insurer, a motion supported by affidavit asserting the failure to receive such compensation. A show cause hearing will be set. OAR 438-006-0075.

To qualify:

- Compensation has to have been being paid and then stopped, as opposed to never started.

Requesting an Expedited Remedy Hearing:

- Claimant may file a motion supported by affidavit asserting the failure to receive such compensation with the Hearings Division, with copies to the insurer;
- If the Hearings Division determines the amount in controversy is less than \$1,000, the case will be referred to the APALJ for processing under the Expedited Claim Service;
- If the matter cannot be resolved by referral to the Expedited Claim Service (e.g., the amount in controversy is not less than \$1,000), the Hearings Division will immediately, upon receipt of the motion and affidavit, issue an Order requiring the self-insured employer or insurer to show cause within 15 days why said compensation has been terminated and has not been provided to the claimant;
 - The show cause order shall contain notice of the date, time, and place of the show cause hearing;
- Within 10 days after the close of the record, the assigned ALJ shall issue an order denying or granting temporary disability compensation and awarding penalties and attorneys fees when appropriate.