

Mediation Letter - After

Important Information

You are scheduled to attend a mediation conference.

Please read the enclosed notice for the:

- Date of the conference
- Time of the conference
- Location of the conference
- Name of the judge
- Whether to attend in person or by telephone

What is a mediation conference?

A mediation conference is an informal meeting. **It is not a hearing.** The purpose of the conference is:

- To discuss the appeal
- To identify the issues in the appeal
- To discuss options to settle the appeal, such as an agreement or a dismissal.

The discussions are considered **confidential** and not used as evidence in a hearing.

Who will be at the conference?

The mediation judge and the parties to the appeal: the worker, the employer, a representative for the Department of Labor and Industries, and possibly attorneys for the parties.

I didn't file this appeal. Do I have to participate in the conference?

You are not required to participate, but you should in order to understand how this appeal and its outcome could affect the claim.

What will the mediation judge do?

The mediation judge cannot act as an attorney for any of the parties to the appeal, but will:

- Answer questions
- Help discuss options for settlement
- Schedule further conferences, if needed
- Prepare an order if there is an agreement or dismissal

What should I bring to the conference?

- Recent doctor reports or letters. These records are returned at the conclusion of the mediation process.
- The Jurisdictional History (yellow sheets sent with the order granting the appeal)

Can I bring someone with me?

Yes. You can bring a family member, a friend, a union representative, or an attorney, if you wish. This is not a hearing – witnesses will not be called to testify.

Do I need an attorney?

An attorney is not required, although the assistance of an attorney may be helpful. If the case goes to a formal hearing, we recommend that you speak to an attorney. If you hire an attorney, please let us know as soon as possible.

What if the case does not settle in mediation?

The case will be given to a hearing judge, who will schedule a formal hearing.

What is a formal hearing?

Hearings at the Board are similar to trials in superior court. The rules of evidence and civil procedure apply. The hearing judge will not know and will not discuss what took place during the mediation conference.

At the hearing, the appealing party must show that the Department's decision is incorrect. This is known as the "burden of proof."

Medical testimony is required to determine the following:

- Allowance of the 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
- Permanent total disability

How is the Board different from the Department of Labor and Industries?

The Board of Industrial Insurance Appeals (Board) is a **separate** state agency that is **independent** from the Department. If a party disagrees with a Department decision, they can appeal to the Board. The Board operates like a court to decide the appeal.

What if I have more questions?

If you have questions 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. Information can also be found on our website at biia.wa.gov.