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State of Wisconsin  
Department of Workforce Development

## Worker's Compensation Insurance Letter

INS #	469
Date	July 16, 2007
Program	Hearings Scheduling
Type	Procedure
Replaces	None

**To:** Claims Handling Offices for Insurance Carriers and Self Insured Employers and Attorneys Representing Parties in WC Disputes  
**From:** Frances Huntley-Cooper, Division Administrator  
**Subject:** New Process for Scheduling Hearings

**Purpose:** To inform claim handling offices and attorneys representing parties in WC disputes that effective August 1, 2007, the Division will begin a process to improve its procedures for scheduling formal hearings.

**Background:** The Department and WC Division are giving high priority to the goal of reducing the wait time for workers who request formal hearings before Administrative Law Judges (ALJs) to resolve disputes over their WC claims. The goal is to provide opportunities for hearings within seven months or less. As part of its plan, the Division will begin to implement changes to the scheduling process.

Historically, after applications for hearings were received, hearings were scheduled for represented workers in the order in which the applications were filed for those the Division deemed "ready" based on the receipt of particular documents such as complete medical and vocational reports. Due to the number of cases pending, most workers wait nine months to a year for a hearing to be scheduled. After the hearings are scheduled, some are postponed for various reasons and many are cancelled pending settlement resolutions. Only about 20% of all cases result in subsequent finding of fact orders based on testimony taken at a hearing. Most of the other 80% are resolved through compromise settlements. Many of the settlement agreements involve prior settlement conferencing by ALJs with attorneys representing the parties.

**Effective with Applications for Hearing filed on or after August 1, 2007**, the Division will require a Certification of Readiness as part of the application for hearing process before it will schedule the dispute for a hearing or settlement conference. It will rely on the applicant's attorney to file the signed certificate attesting that efforts to resolve the dispute have either been exhausted or are not progressing in a timely manner, that the necessary supportive documents such as medical reports, medical bills, vocational reports and other reports, etc. have been shared with the defense representative with sufficient time to prepare, and that the applicant is ready to proceed. Hearings and settlement conferences for new applications filed on or after August 1, 2007, will be scheduled in the order of the receipt of the Certification of Readiness.

The Division will mail Certification of Readiness forms to applicants' attorneys for most applications that have been received prior to August 1, 2007 and are waiting to be scheduled for hearing. Workers who file an application for a hearing and are not represented will be contacted by Division staff and given opportunities to participate in alternative dispute resolution with their employer's insurance representative. If alternative dispute resolution is not used or is unsuccessful, the matter will be scheduled for a pre-hearing conference prior to the scheduling of a hearing. The Division will follow-up on cases where there has not been a certificate received. If the time to return the certificate becomes excessive, the Division may dismiss the Application for Hearing. The Division will also try to maintain a 10 to 12 week advance notice of scheduled hearings and settlement conferences.

The Division's effort in modifying its scheduling process is intended to sort out and focus on cases that, according to the applicant's representative, are truly ready to be heard and should be scheduled as soon as possible for a hearing or a settlement conference with an ALJ. Its use is also intended to keep cancellations and postponements of scheduled events to a minimum.

The Division encourages attorneys who represent parties to engage in dispute resolution activities with the insurers' representatives as soon as possible and before receipt of the notice for the scheduled event. The Division also requests that representatives inform the Division three months or more in advance as to their dates of unavailability for scheduling.

**Action Requested:** This letter is informational and advisory. Insurers are requested to inform their staff and legal representatives of the changed process. The Division strongly recommends that insurers participate with their legal representatives and applicants' attorneys in early intervention to avoid unnecessary scheduling of hearings and help bring prompt resolution of disputed claims. The Certification of Readiness form can be found on the Division's web site form list at [http://dwd.wisconsin.gov/wc/about\\_us/formsorder.htm](http://dwd.wisconsin.gov/wc/about_us/formsorder.htm) or you can access the form directly at [http://dwd.wisconsin.gov/dwd/forms/wkc/WKC\\_15717\\_E.htm](http://dwd.wisconsin.gov/dwd/forms/wkc/WKC_15717_E.htm). This form can be completed online, printed and mailed to the Division.

**Inquiries:** For questions, contact Jim O'Malley, Director of Legal Services, Worker's Compensation Division at 608-267-6704.