

# The Non-Lawyers' Guide for Worker's Compensation Proceedings!

Your case will be heard and decided by an administrative law judge who works for the Office of Administrative Courts (OAC). OAC is an independent agency within the executive branch of government. OAC hears cases for many agencies of the State of Colorado, including the Division of Workers' Compensation.

The information provided in this pamphlet contains general information about workers' compensation hearings. OAC provides this information to help you in the workers' compensation hearing process and is not legal advice. Not all cases are the same and your case may be different. It is **not** proper to talk to the judge or OAC staff about the facts of your case or to ask them for legal advice.

## WHO CAN I TALK TO ABOUT MY CASE?

There are people you can talk to about your case. Contact Customer Service (303) 318-8700 at the [Colorado Division of Workers' Compensation](#) (DOWC) to talk to someone about your case or for general assistance in understanding your case. You might want to read the [Overview of the Workers' Compensation Claim Process](#).

Staff and judges at the Office of Administrative Courts may answer procedural questions, like: "How do I apply for a hearing?" But we may not answer questions about the facts of your case or give you legal advice. If you feel you need legal advice, please contact an [attorney](#) who practices workers' compensation law.

## HOW DO I RESOLVE DISPUTES INVOLVING MY CLAIM?

To resolve disputes over your claim, you may apply for a formal hearing before an administrative law judge at the Office of Administrative Courts (OAC). At OAC, an impartial judge will preside over the hearing to rule on the admissibility of evidence, swear in witnesses, and generally conduct the hearing. These hearings are formal, trial-like proceedings where the judge is guided by rules of evidence. The judge will decide whether to award you benefits based upon the law and the evidence admitted at the hearing.

Remember, you may be able to resolve disputes between you and your employer or insurance carrier informally at a [prehearing or settlement conference](#). The Division of Workers' Compensation, Prehearing Conference Unit, conducts

prehearing and settlement conferences in workers' compensation claims. This unit assists OAC in handling motions in workers' compensation cases and in resolving disputes. You may contact the Prehearing Conference Unit at:

633 17th Street, Suite 400 Denver, CO 80202-3660

Main Number: (303) 318-8721

Setting Line: (303) 318-8736

Fax Number: (303) 318-8740

cdle\_dowc\_prehearings@state.co.us

## **SHOULD I REPRESENT MYSELF IN MY WORKERS' COMPENSATION CASE?**

At hearing before the judge at Office of Administrative Courts (OAC), you may be represented by an attorney, or you may represent yourself. OAC cannot appoint an attorney to represent you. If you need to find an attorney, the Colorado Bar Association provides a list of attorneys who practice in the area of workers' compensation. It is up to you to decide whether to hire an attorney to represent you. An attorney can help you decide whether you need one. You may choose to represent yourself, but an attorney likely is more qualified to help you present your case to the judge.

Remember, the judge is neutral and may not give legal advice to you or the other side. If you choose to represent yourself at the hearing, you must be familiar with the [workers' compensation law governing your entitlement to benefits](#). You must also be familiar with rules governing hearing procedures ([OAC Rules](#) & [DOWC Adjudication Rules](#)) and with [rules of evidence](#).

You may want to review OAC's answers to [frequently asked questions](#) and our [explanation of the hearing process](#).

## **UNDERSTANDING THE HEARING PROCESS:**

Below is general information about formal workers' compensation hearings before judges at the Office of Administrative Courts (OAC). Remember, the judge will decide whether to award you benefits based upon evidence admitted at the hearing. Note that an injured worker claiming benefits is generally referred to as the "claimant". In general, an employer and its insurance company responding to the claim are collectively referred to as "respondents".

### **Summary of the process:**

- Apply for hearing with OAC

- Response to application for hearing
- Setting date with OAC clerk
- Confirmation of hearing date
- Notice of Hearing issued by OAC
- Document exchange deadline
- Hearing before the judge
- Judge issues order

### **Forms you might need:**

- [Application for Hearing/Notice to Set](#)
- [Application for Hearing - Disfigurement Only](#)
- [Application for Expedited Hearing](#)
- [Response to Application for Hearing](#)
- [Hearing Confirmation Rule 8\(1\) OACRP](#)
- [Hearing Cancellation](#)
- [Case Information Sheet \(CIS\)](#)
- [Code of Conduct for Interpreters in Administrative Hearings](#)

### **Helpful Pamphlets / Instructions:**

- [Instructions for Completing an Application for Hearing and Notice to Set, or a Response to Application for Hearing, for a Workers' Compensation Hearing](#)
- [Instrucciones para completar una Aplicacion Para Audiencia y Aviso para Fijar, o una Respuesta a una Aplicacion Para Audiencia, para una Audiencia de Compensacion de Trabajadores](#)

### **Sources of Legal Authority / Rules:**

- [Workers' Compensation Act of Colorado](#)
- [Workers' Compensation Rules of Procedure](#)
- [Office of Administrative Courts Rules of Procedure](#)
- [Colorado Rules of Evidence](#)

## **Applying for a hearing:**

If you have disputed issues in your workers' compensation case that need to be decided by a judge, you may request a formal hearing from OAC by filing either an [Application for Hearing/Notice to Set](#) or, where allowed by statute, an [Application for Expedited Hearing](#). Where the only issue the judge must decide is an award of disfigurement benefits for scarring or other disfigurement, you may file an [Application for Hearing - Disfigurement Only](#).

For help obtaining forms for applying for hearing, you can call OAC at (303) 866-2000 or (303) 866-XXXX, or you can also call Customer Service at the Division of Workers' Compensation, (303) 318-8700.

### **[Application for Expedited Hearing](#)**

Under limited circumstances, either claimant or respondents may file an Application for Expedited Hearing. For help, see OAC's pamphlet: [Instructions for Completing an Application for Hearing and Notice to Set, or a Response to Application for Hearing, for a Workers' Compensation Hearing](#).

The following are circumstances under which OAC may expedite a hearing: (1) Where claimant files an [Application for Expedited Hearing](#) within 45 days of respondents filing a [Notice of Contest](#); (2) where prior authorization of medical treatment has been requested and denied pursuant to [W.C.R.P., Rule 16-10](#); (3) where respondents have filed a [Petition to Suspend Compensation and claimant has objected \(link to WCRP 6-4\)](#); and (4) where there is a dispute concerning claimant's request for a [one-time change of physician](#).

If OAC accepts your Application for Expedited Hearing, the clerk will assign the date, time, and location of the hearing and will send you that information on a [Notice of Hearing](#).

If you do not meet one of the above four requirements for obtaining an expedited hearing, do not file an Application for Expedited Hearing. If you improperly file an Application for Expedited Hearing, you will cause significant delay in setting your case for hearing.

Be sure you carefully follow the instructions for completing the [Application for Expedited Hearing form](#). You should attach a copy of the Notice of Contest where you are requesting an expedited hearing within 45 days of the Notice of Contest. Our clerks will reject the Application for Expedited Hearing unless you complete all parts.

### **[Application for Hearing/Notice to Set](#)**

If you don't qualify for an expedited hearing, you may obtain a hearing by filing an [Application for Hearing/Notice to Set](#). OAC holds hearings in Denver, Alamosa, Boulder, Loveland, Greeley, Colorado Springs, Pueblo, Grand Junction, Durango, and Glenwood Springs. For help, see OAC's pamphlet: [Instructions for Completing an Application for Hearing and Notice to Set, or a Response to Application for Hearing, for a Workers' Compensation Hearing](#).

Be sure you carefully follow instructions in the above pamphlet for completing the Application for Hearing and Notice to Set form. Our clerks will reject the application for hearing unless you complete all parts. The following is a summary of those instructions.

You need to fill in the information on the front of the form regarding parties and issues. Verify the information you provide on the application for hearing, such as the name and address of the employer and insurer. We use the information you provide to set the case up in our computer system, which automatically generates certain documents based upon that information. So, if you provide us an incorrect address for your employer or the insurance carrier, correspondence from OAC will go to the incorrect address. This will might invalidate the notice of hearing we send out and cause significant delay in getting your case to hearing.

You must always provide respondents, or their attorney if represented, a copy of any document you file with OAC, including copies of the application for hearing, [any motion or correspondence to OAC, and responses to motions](#). You must complete the Certificate of Service or Certificate of Mailing to show that you have provided a copy of the document to the other side.

If you are the employer in the case, you need to file a [Response to Application for Hearing](#) and provide claimant copies of it and anything else you file with OAC.

If you wish to have OAC set the date and time of the hearing for you, follow the instructions under Section B of the Application for Hearing and Notice to Set form. Even if you ask OAC to set the hearing, be certain to fill out the front of the form and Sections D and E of the form. Send the application for hearing to the OAC office closest to your residence. As required under Section E, you should also send a copy of the application for hearing directly to the respondents (the employer or insurance company) or to their attorney if represented. A clerk will send a notice to set to the necessary parties and arrange for a hearing date for you.

If you wish to set the case yourself, follow the directions on the Application for Hearing and Notice to Set form. Once a mutually agreeable hearing date has been set, OAC will send you and the other parties a formal notice of the hearing.

## [Application for Hearing - Disfigurement Only](#) :

Where the only issue the judge must decide is an award of disfigurement benefits for scarring or other disfigurement, you may file an [Application for Hearing - Disfigurement Only](#). For help, see OAC's pamphlet: [Instructions for Completing an Application for Hearing and Notice to Set, or a Response to Application for Hearing, for a Workers' Compensation Hearing.](#)

### **Evidence You May Need to Offer to the Judge at Hearing:**

You should consider what evidence you need to bring to hearing to prove your case. For example, you might want to consider offering documentary evidence (Exhibits), your testimony, and testimony of other witnesses who know about the facts and issues involved in the case.

Only those witnesses listed on the application for hearing or response to application for hearing may testify at the hearing, unless witnesses are added by agreement of the parties or by the judge. This means you need to know the names of witnesses you intend to call and list them on your Application for Hearing.

If there are documents, such as letters, contracts, business records, or medical records that help prove your case, bring the original and at least three copies to the hearing. You may also bring photographs or other items that relate to your case that you want the judge to consider. Documents, photographs, records, and reports can be considered by the Judge where admissible under the Workers' Compensation Act or through the Colorado Rules of Evidence.

### **20-Day Exchange Deadline:**

At least 20 days before the hearing, you must mail or hand-deliver to the respondents (or their attorney if they are represented) copies of documents you intend to submit to the judge. Documents you must exchange with opposing parties include medical records from doctors and hospitals, records of your employer, and vocational reports.

If you fail to exchange the above documents 20 days or more before the hearing, the judge may not consider them as evidence. See [Section 8-43-210](#) for a statutory reference for the 20-Day rule.

### **Subpoena Procedures for Witnesses or for Obtaining Records:**

Begin the task of compiling documentary evidence by asking the other side for copies of employment records or medical records in their possession. You also have the right to subpoena relevant records, or other things to be produced at the

hearing, from individuals, businesses, and government agencies. A witness can voluntarily come to the hearing; however, a subpoena protects your right to have that person testify if their testimony is relevant to your case. You must arrange to pay required fees, including mileage, and have someone else serve the subpoena at least 48 hours before the hearing, not counting weekends and holidays. You can also obtain records through formal [discovery](#).

If the other side refuses to cooperate with your request, consider setting a prehearing conference before a prehearing administrative law judge to resolve the dispute or to obtain subpoenas. The Division of Workers' Compensation, Prehearing Conference Unit, conducts prehearing and settlement conferences in workers' compensation claims to rule on motions, resolve disputes, and assist OAC in issuing subpoenas. You may contact the Prehearing Conference Unit at:

633 17th Street, Suite 1300 Denver, CO 80202-3660

Main	Number:	(303)	866-5527
Setting	Line:	(303)	866-5508
Fax Number: (303) 866-5588			

### **The Hearing Process:**

The following is only a summary of the hearing process. After reading this summary, you may have additional unanswered questions. You should then review the [Workers' Compensation FAQs](#) section of this website.

Your hearing will be very similar to a trial in court, with witnesses, and exhibits presented by all parties. An attorney may represent the other side to your case. You may have an attorney represent you, or you may appear and represent yourself. If you represent yourself, you must be familiar with the [Workers' Compensation Act of Colorado](#), the [Workers' Compensation Rules of Procedure](#), and the [Colorado Rules of Evidence](#). At hearing, you must be able to respond to objections from the other side. Remember, the judge must remain neutral and cannot help you present your case or respond to objections for you. If you need to find an attorney for legal advice, you may want to consult the the list of [workers' compensation attorneys provided by the Colorado Bar Association](#).

In workers' compensation cases, the issues vary from case to case. In most cases, the claimant (employee) must introduce evidence to show that he or she is entitled to workers' compensation benefits. Generally, you must show that you were hurt as a result of performing the duties of your employment and that, under the law, you are entitled to workers' compensation benefits from respondents (the insurance company or your employer).

When the hearing begins, the judge may ask each side what the issues are and what each side intends to prove. Each side then can introduce relevant evidence to prove its case. At the hearing, the claimant usually must present their case first before the respondents present their case. This means you must present your evidence first. Your evidence may consist of exhibits (documents and records), your testimony, and testimony from your witnesses.

Exhibits may include medical reports and employer records presented to the judge at the hearing. You must provide copies of exhibits to the opposing side or lawyer at least 20 days before the hearing. Unless the other side agrees, exhibits should not include a written statement by a witness who is not present to testify at the hearing. Do not attempt to file medical records or documents with OAC before the time of the hearing, because the judge will only consider evidence admitted at the hearing.

Either side may object to admitting certain exhibits into evidence. The judge will decide whether to allow exhibits into evidence. In general, the judge will not consider exhibits unless they are admissible under the [Workers' Compensation Act](#) or the [Colorado Rules of Evidence](#).

If you call witnesses, you may ask them questions about the facts of your case (direct examination). After you are finished asking questions, the lawyer for the other side will ask questions (cross-examination). You may then ask more questions about matters brought up by the other side (redirect examination).

In some cases, depositions may be taken of doctors or other witnesses before or after the hearing. A deposition is a sworn statement taken before a court reporter outside of court, after all parties receive notice of the deposition and have an opportunity to be present. The depositions are filed with the judge who reads them instead of having the witnesses testify at the hearing.

Remember, this hearing is your chance to tell the judge why you should receive workers' compensation benefits. It is important to have your witnesses present at the hearing to testify and to provide the medical records and employer records that support your claim to the judge at the hearing.

Under some circumstances, respondents are required to put on their evidence first. As an example, if respondents already are paying you benefits that they wish to stop paying, they will set the case for hearing. If that happens, respondents must present their evidence first and show proper grounds for stopping or reducing your benefits. You will then have an opportunity to present evidence to show that your benefits should not be stopped or reduced.



After hearing all testimony and admitting the exhibits, the judge may allow each side the chance to make a closing argument. Closing arguments can only address facts brought out in testimony of the witnesses or in exhibits received into evidence. Closing argument is not a chance to testify and you may not mention things that were not received in evidence. Sometimes the judge may allow the parties to make a closing argument in writing after the hearing.

Once closing arguments have been presented, the hearing is concluded. The judge may issue a ruling at the end of the hearing or the judge may take additional time before ruling to review the evidence before issuing a ruling. Or the judge may issue a ruling at the end of the hearing. If the judge needs additional time to review the evidence, the judge will issue a written order within 15 business days after the hearing.

**The judge's findings of fact and order:**

You should carefully read the judge's written order. The order will contain written instructions and procedures for you to follow should you decide you want to appeal it. For a more detailed explanation of how to appeal a judge's order, refer to the [Workers' Compensation FAQs](#) section of this website.