

## **General Outline for Administrative Law Judge (ALJ) Review**

1. After the member's petition for appeal is forwarded to the ALJ, the ALJ issues a Notice of Pre-hearing Conference.
  - a. The member should provide INPRS with a telephone number where the member can be reached for the pre-hearing conference (PHC).
  - b. PHCs are conducted by telephone. INPRS calls the member at the number provided, places the member on hold, calls the ALJ, and conferences the ALJ into the call.
  - c. A member may be represented by an attorney or appear pro se.
  - d. The member should be prepared to discuss the reason he/she is appealing. The member presents his/her position first, then INPRS presents the organization's position.
  - e. The ALJ will not make a ruling at the PHC. The PHC is intended solely to flesh out the issues of the case and set a schedule for submitting briefs or conducting an evidentiary hearing.
2. Discovery
  - a. The ALJ may set a schedule for conducting discovery, if requested by either party; this generally spans 30 to 90 days.
  - b. If the parties agree to a period of discovery, the petitioner has the opportunity to serve INPRS with discovery.
  - c. INPRS may also serve the petitioner with discovery, which often requires the petitioner to prepare responses in written form.
3. Summary Judgment v. Evidentiary Hearing
  - a. The direction of the appeal will initially be decided at the PHC. The appeal can proceed in one of two ways:
    - i. Summary judgment: Petitioner and respondent agree to the facts, but disagree as to how the law applies to the facts; or
    - ii. Evidentiary hearing: There is a dispute over a material issue of fact, and a hearing is needed to present testimony and evidence pertaining to the material issue of fact.
  - b. Summary judgment
    - i. Involves written briefs that are submitted to the ALJ.
    - ii. Generally, INPRS files for summary judgment first. If the petitioner is unrepresented, this allows the petitioner to see the format of a summary judgment brief.
    - iii. If the petitioner is not comfortable drafting a formal legal brief, the petitioner can submit his/her arguments in letter form; the ALJ will accept this format.
      1. INPRS Legal is available to answer procedural questions for the petitioner but not substantive questions.
    - iv. Normally INPRS has 30 to 45 days to file for summary judgment, the petitioner has 30 to 45 days to file a response, and INPRS has 15 days to file a reply.

- v. The ALJ then has 90 days to issue a decision. The petitioner will receive a copy of the ALJ's decision in the mail.
    - 1. The ALJ may decide at summary judgment that an evidentiary hearing is necessary.
  - vi. The member then has 15 days to file an objection, if desired, before the Executive Director issues a final order.
- c. Evidentiary hearing
- i. Involves a hearing at the INPRS office in Indianapolis.
  - ii. Parties call witnesses and enter evidence before the ALJ.
  - iii. After conclusion of hearing, ALJ has 90 days to issue a decision. The petitioner will receive a copy of the ALJ's decision in the mail.
  - iv. The member then has 15 days to file an objection, if desired, before the Executive Director issues a final order.