

Decisions, decisions, decisions, Part 5: Preparation for oral hearing

This month's column concludes our discussion of oral hearings. Once a claimant has applied for an oral hearing, the claimant and/or his or her representative should take a number of steps to prepare both for the hearing and for what comes after the hearing.

The claimant should immediately request a copy of the complete case file from OWCP. This is particularly true in cases where OWCP has relied on a medical report from an OWCP-selected second opinion specialist (SECOP) or an impartial medical specialist (IME referee physician). In such cases, it is crucial that the claimant and/or representative obtain and review the "Statement of Accepted Facts" (SOAF) and the questions to be resolved that the office prepared for the SECOP or IME.¹

The claimant also should carefully review the adverse decision he or she is appealing and note the deficiencies the claims examiner has identified in that decision. The claimant should outline these deficiencies in writing and determine what evidence will be needed to overcome them (medical reports, witness statements, detailed employee narrative describing the injury or work factors that caused the injury).

If the deficiencies involve medical issues, someone knowledgeable about OWCP should carefully examine the medical evidence to determine if it resolves those issues. If the evidence does not resolve them, the claimant should make the appropriate appointments to obtain the necessary medical evidence (e.g., objective clinical findings, definitive diagnosis or proper medical rationale).

If OWCP's denial of the claim is based on the medical opinion of a referee physician from an IME, the claimant should find a physician not previously involved in the case who is board-certified in the medical field that corresponds to the claimant's condition, to provide new medical evidence. This evidence must be very strong and persuasive, since OWCP gives great weight to the medical opinion of the referee specialist.

Once the evidence has been gathered, the claimant and/or representative should outline a written strategy for the presentation of argument, information and new evidence at the hearing. He or she also should decide if anyone other than the claimant will testify at the hearing and what facts that testimony will establish (e.g., facts regarding the disputed incident that is the basis for the claim).

At the hearing, the claimant and/or representative and any witnesses should speak carefully and clearly for the tran-

scription that will become part of the record. Because the proceeding is non-adversarial, they should conduct themselves politely and professionally. They also should take careful notes of any requests for additional evidence and information made by the hearing representative. If they don't understand something, they should ask for clarification.

Because the hearing remains open for the submittal of additional evidence until 30 days after the hearing is held, any new documentary evidence that the claimant wants the hearing representative to consider should be submitted accordingly. This would include any new evidence that the hearing representative has requested or has suggested would be helpful for the case. The easiest and most convenient way to submit additional evidence is through ECOMP.

ECOMP is an online portal set up by OWCP that allows claimants, representatives and others to use the Internet to 1) upload documents into existing claim files and 2) file new claims (CA-1's and CA-2's) and claims for wage-loss compensation and schedule awards (CA-7's).²

The portal is accessed at ecomp.dol.gov. The NALC Compensation webpage has links both to the portal and to a tutorial on how to use the portal.³

As noted in the August column, OWCP will furnish a copy of the transcript of the hearing to the claimant or his or her representative and to the agency. They both have 20 days from the date the transcript is sent to send in comments. The agency also must send any comments to the claimant, who will be given an additional 20 days from the date they are sent to comment on the comments. If the claimant or representative does not receive comments from the agency after the specified 20 days, he or she should write to the hearing representative stating that no comments from the agency have been received and requesting a copy of any comments received by the hearing representative. 

1. See Compensation Department columns in *The Postal Record* from April and May 2012 for a discussion on how to review the SOAF and the questions to be resolved.

2. At the time of this writing, only Function 1 is available to postal employees. Postal employees still cannot electronically file new claims or claims for wage-loss compensation. 20 CFR §§ 10.101(a), 102(a), & 103 provide that federal employers should create a method for electronic filing by Dec. 31, 2012.

3. To upload a document to the case file, there is no need to sign in or register on the ECOMP webpage (and, in fact, postal employees cannot sign in or register as of yet). One should click on "Access Case & Upload Document" in the green box on the right side of the page and then follow the easy on-screen instructions.