

Ask the Expert

Q.

One of my employees suffered an injury and has brought a workers' compensation claim. My insurance company has denied the claim and I have been asked to testify at a hearing. How does the hearing process work?



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A.

When a dispute arises between an injured employee and his or her employer, the matter is resolved through the New Hampshire Department of Labor, an administrative agency. RSA 281-A:43 and Lab 201.01 et. seq. regulate the workers' compensation hearing process. A hearings officer, acting as a judge, conducts first-level hearings. The parties present evidence to prove or refute the claim. The employee has the burden to prove that a claim is compensable. The employee and witnesses testify in person unless the department provides permission, based on special circumstances, for a telephonic hearing. All testimony is digitally recorded. Formal rules of evidence are not applicable.

All medical evidence must be disclosed to the opposing party five business days prior to the hearing. Any non-medical evidence must be disclosed two business days before the hearing. To ensure compliance with these rules, defense counsel should be provided with documentation supporting the denial of the claim, and names of possible witnesses, as early as possible.

After the hearing, the hearings officer has 30 days to issue a decision. Parties have a right to file a de novo appeal to the Workers' Compensation Appeals Board, within 30 days, if the decision is unfavorable to their position. The board is comprised of a three-member panel. Each panel includes

an attorney chairperson, a member who represents labor and a member who represents insurance. Similar rules apply to appeal hearings as first-level hearings. Parties may appeal decisions of the board to the New Hampshire Supreme Court. Appeals are accepted on a discretionary basis.



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