

NOTICE OF RIGHTS AND PROCEDURES  
IN WORKERS' COMPENSATION HEARINGS  
[ORS 183.413(2)]

A workers' compensation hearing is similar to a trial before a judge without a jury. The hearing is held by an Administrative Law Judge (ALJ) employed by the Workers' Compensation Board (Board). The Board is not a party to the hearing. The ALJ will make a final, independent decision, based upon the record before the ALJ. The issues to be considered are those set forth in the request for hearing and response. However, amendments to the issues may be allowed up to the time of hearing. No proposed findings, conclusions or summaries will be made prior to the issuance of a written order by the ALJ. The decision of the ALJ will be final and binding upon the parties, unless review by the Board or Appellate Courts is requested.

Usually the party who requests a hearing has the burden of proof. At the time of hearing the ALJ will indicate which party has the burden of proof, and will explain what it is that that party must prove. The party with the burden of proof presents its case first.

Either party may offer evidence into the record at hearing. Evidence may consist of documents, real objects or sworn testimony. A witness called to testify by one party may also be questioned by the other party. A party offering documentary evidence must provide copies for the other party. A party may object to evidence being received into the record on the basis that the evidence is irrelevant, immaterial, unduly repetitious or otherwise not probative (tending to prove a matter at issue) or reliable. With respect to any issue arising from an Order on Reconsideration, evidence may be objected to, and will be excluded, if it was not a part of the record before the Appellate Review Unit of the Workers' Compensation Division. The ALJ will determine whether evidence will be received into the record.

A recording of the hearing will be made to preserve testimony, rulings, and/or arguments. A transcript of the recorded proceedings will be made available to each party if the matter is reviewed by the Board or Appellate Courts. A party may otherwise obtain a copy of the recorded hearing by contacting the Board. The recorded hearing, with any real or documentary evidence, will serve as the record for any review by the Board or Appellate Courts.

Parties to workers' compensation hearings are usually represented by attorneys. Given the substantive and procedural complexity of workers' compensation matters, the Board recommends that parties hire an attorney to represent them. During the course of the hearing an unrepresented party may ask that the hearing be stopped so the party can hire an attorney. The ALJ will decide whether to allow such a request.

Parties may ask that the hearing be continued for a period of time to obtain additional evidence. The Board, however, expects that parties will normally have all evidence they wish to offer available at the time of hearing. The ALJ will decide whether a continuance will be granted.

Any party who is dissatisfied with the decision of the ALJ may request review by the Board or Court of Appeals. The ALJ's order will explain where a request for review should be sent. The request for review must be made within the time indicated in the ALJ's order and must be served on all parties.