

which such claim is filed, a petition to reopen on the ground of newly discovered evidence may be filed. No such petition will be entertained unless it appears therein that the newly discovered evidence came to the knowledge of the party filing the petition subsequent to the date of issuance of the Final Decision or the date on which the Proposed Decision was entered as the Final Decision; that it was not for want of due diligence that the evidence did not come sooner to the claimant's knowledge; and that the evidence is material, and not merely cumulative, and that reconsideration of the matter on the basis of that evidence would produce a different decision. The petition must include a statement of the facts which the petitioner expects to prove, the name and address of each witness, the identity of documents, and the reasons for failure to make earlier submission of the evidence.

#### § 509.6 Hearings.

(a) Hearings, whether upon the Commission's own motion or upon request of claimant, will be held upon not less than fifteen days' notice of the time and place thereof.

(b) The hearings will be open to the public unless otherwise requested by claimant and ordered by the Commission, or when required by law.

(c) The hearings will be conducted by the Commission, its designee or designees. Oral testimony and documentary evidence, including depositions that may have been taken as provided by statute and the rules of practices, may be offered in evidence on the claimant's behalf or by counsel for the Commission designated by it to represent the public interest opposed to the allowance of any unjust or unfounded claim or portion thereof; and either may cross-examine as to evidence offered through witnesses on behalf of the other. Objections to the admission of any such evidence will be ruled upon by the presiding officer.

(d) The hearings will be conducted as non-adversarial proceedings. However, the claimant will be the moving party, and will have the burden of proof on all issues involved in the determination of his or her claim.

(e) Hearings may be stenographically reported or electronically recorded, either at the request of the claimant or upon the discretion of the Commission. A claimant making such a request must notify the Commission at least ten (10) days prior to the hearing date. When a stenographic record or transcript of a hearing is ordered at the claimant's request, the cost of the reporting and transcription will be charged to the claimant.

(f) The following rules of procedure will apply in the conduct of hearings held by the Commission for presentation of objections to Proposed Decisions:

(1) *Presentation of Objections to Proposed Decisions* (i) Objections should focus either on the presentation of new evidence, or on the presentation of arguments demonstrating that, in the claimant's view, the Commission erred in considering the evidence previously submitted. Restatements of facts, evidence or materials already established in the record should be avoided.

(ii) The Chief Counsel of the Commission or designated staff attorney will first introduce the objecting claimant and any witnesses to the Commission, and will then present a brief summary of the case, together with reasons supporting the decision as issued.

(iii) The objecting claimant and all witnesses will be sworn.

(iv) The objecting claimant, or the claimant's attorney, will then present the claimant's objections to the Commission, specifically setting forth the basis for the claimant's disagreement with the Proposed Decision, and the reasons supporting the claimant's contention that a more favorable decision should be rendered. Claimants will normally be limited to fifteen (15) minutes for their presentation of objections, but may request additional time if needed.

(v) Following presentation of the claimant's objection, the Chief Counsel or designated staff attorney will be allotted an equivalent amount of time to question the claimant and the claimant's witnesses with respect to the testimony and other evidence presented in support of the objection.

(vi) The objecting claimant or the claimant's attorney, and the Chief

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Counsel or designated staff attorney, will then be allotted up to five (5) minutes each for follow-up or rebuttal.

(vii) The Chair and Commissioners may direct questions to the objecting claimant and the claimant's attorney, and to the Chief Counsel or designated staff attorney, at any time during the proceedings described in the foregoing.

(viii) The foregoing provisions may be modified at the discretion of the Chair as circumstances may require.

(ix) At the conclusion, the Chair will inform the participants that the Commission will take the matter under advisement, and that a written Final Decision disposing of the objection will issue in due course.

(2) *Submission to Questioning/Conduct of Proceedings* (i) Presentation of the claimant's objection by the objecting claimant or the claimant's attorney, and of follow-up and rebuttal by the claimant or the claimant's attorney and by the Chief Counsel or designated

staff attorney, must be directed to the Commission. Verbal exchanges between the objecting claimant or the claimant's attorney, and the Chief Counsel or designated staff attorney, will be limited to questions and answers during the questioning phase of the proceeding described in paragraph (f)(1)(v) of this section, unless otherwise necessary for clarification or exchange of documents.

(ii) Professional conduct and courtesies of the kind normally accorded in appellate judicial proceedings must be observed in all appearances and proceedings before the Commission.

**§ 509.7 Presettlement conference.**

The Commission on its own motion or initiative, or upon the application of a claimant for good cause shown, may direct that a presettlement conference be held with respect to any issue involved in a claim.