

Nebraska Workers' Compensation Court Information Sheet: Informal Dispute Resolution and Mediation



What is mediation?

Mediation is a method of informal dispute resolution which enables people to find a solution to their conflict that will work for them with the help of a neutral mediator. It can help settle an issue or an entire case without the need for a formal hearing. ***Any right to file a petition or motion in the court will not be barred or delayed because of an attempt at mediation.***

How can mediation help?

Mediation can help speed the resolution of claims and may expedite the payment of benefits owed to injured workers. It allows people to tell their point of view and reach agreements based on their own decisions rather than waiting for a hearing before a judge who will decide who wins or loses.

Mediators are not judges

Mediators make no decisions for the parties and cannot give legal advice or take sides. A mediator helps parties realize and explain their needs, clarify issues, explore solutions and negotiate an agreement. The mediators are attorneys employed by the court who are professionally trained in mediation and experienced in workers' compensation issues. At times they may be assisted by mediators from other disciplines.

The mediation process is:

- **Fast.** If all parties agree, a mediation conference or telephone conference call can be scheduled immediately. Mediation requires minimal preparation and saves time and money.
- **Empowering.** Parties keep control over the outcome of their own problem.
- **An Alternative.** It may occur at any time: from early in a conflict to prior to, or concurrent with, a petition being filed in court. However, mediation will not affect deadlines for hearings and filings in connection with the petition.
- **Of Little or No Cost to Either Party.** The Nebraska Workers' Compensation Court bears most costs related to mediation. Parties will be responsible for any attorney fees or other incidental costs they may incur. ***(You have the right to have an attorney represent you; however, the law does not require that you have an attorney.)***
- **Confidential.** It is open discussion in a private setting. A mediator will not tell other people anything you say without your permission. Any communication made during mediation is confidential and may not be disclosed by the mediator unless the parties agree in writing. Any communication from the mediation is not admissible evidence if the matter should result in litigation, unless it is otherwise discoverable.

How is mediation requested?

1. **Request:** Fill out the Informal Dispute Resolution Request Form with as much detail as possible, attaching copies of documents that substantiate the claim. The request form is available on the Workers' Compensation Court web site (<http://www.wcc.ne.gov/publications/idrform.pdf>). If you would like a request form mailed to you, please contact the court at 800-599-5155 or 402-471-3025. Send a copy to the court and a copy to the other party to the dispute. If it is uncertain who "the other party" is, the coordinator may be able to assist you.
2. **Response:** The other party will respond to the request and attach supporting documents.

3. **Information Gathering:** The coordinator will explain the process to all parties and answer any questions about the process. After copies of relevant documents are received, the coordinator will schedule a mediation conference with the mediator.
4. **The Mediation:** The trained mediator will conduct the conference in-person or over the telephone in a format that provides the parties the opportunity to express all their concerns. An average mediation conference may last up to two hours. The mediator does not make any decision on any issues raised by the parties but may educate the parties about workers' compensation laws and rules. The role of the mediator is to help parties find a solution that will work for them.

What types of disputes can be mediated?

- Medical expenses
- Choice or change of physician
- Lost wages
- Permanent impairment
- Causation (whether an injury is related to work)
- Vocational rehabilitation issues
- Any other workers' compensation dispute

In addition to voluntary mediations, litigated cases involving a party who does not have an attorney are forwarded for mediation. A judge may also request that the parties in any case attempt mediation.

Who can use mediation services?

- Injured workers
- Claims adjusters
- Employers
- Medical and rehabilitation providers
- Attorneys
- Any other person involved in a workers' compensation dispute

This information sheet has been prepared by the Nebraska Workers' Compensation Court to answer some of the commonly asked questions concerning workers' compensation. Further inquiries should be directed to:

**Nebraska Workers' Compensation Court
P.O. Box 98908
Lincoln, NE 68509-8908**

800-599-5155 or 402-471-3025

<http://www.wcc.ne.gov/>

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