

CHAPTER 11
WORKERS' COMPENSATION APPEALS BOARD
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CHAPTER 11

WORKERS' COMPENSATION APPEALS BOARD

1. ROLE AND RESPONSIBILITIES.

a. Background. The Workers' Compensation Appeals Board (WCAB) is a semijudicial organization within the Department of Industrial Relations. The WCAB is responsible for the adjudication of disputed occupational injury and illness cases and the determination of extent of permanent disability and settlement approval.

b. Employee Contact. An employee may contact the Division of Workers' Compensation, Information and Assistance Unit, to obtain impartial advice relevant to an occupational injury or illness case. The Information and Assistance Unit may assist in resolving disputes between an employee and State Compensation Insurance Fund (State Fund), an attorney, or others in the injury and illness case management process.

2. WORKERS' COMPENSATION APPEALS BOARD HEARINGS AND TRIALS.

a. Purpose of Hearings and Trials. An employee, an attorney, or State Fund may request a WCAB hearing and/or trial to resolve benefit disputes between the employee and State Fund.

b. Notice of Hearings and Trials. Commanders receiving notice of a WCAB hearing or trial from any source other than the Disability and Retirement Unit (DRU) shall immediately forward a copy of the notice to DRU and inform them if urgent or unusual issues are involved.

3. DEPARTMENTAL ATTENDANCE AT WORKERS' COMPENSATION APPEALS BOARD HEARINGS AND TRIALS.

a. Departmental Representation. Departmental representation at a WCAB hearing or trial is not legally required unless specifically requested by State Fund. However, the commander or designee may arrange for departmental representation if a need is identified.

4. SUBPOENA WITNESS FOR WORKERS' COMPENSATION APPEALS BOARD HEARINGS AND/OR TRIALS.

a. Employee Attendance. An employee who is attending their own WCAB hearing or trial, or who attends on behalf of the claimant employee, is not eligible

for the use of state time. Absences solely for attendance at a WCAB hearing or trial are not eligible for coverage by Labor Code Section 4800.5, industrial disability leave, or sick leave. This prohibition does not apply if the employee is already off duty utilizing Labor Code Section 4800.5, industrial disability leave, or sick leave on the day of the hearing or trial (see Highway Patrol Manual [HPM] 11.1, Administrative Procedures Manual, Chapter 10, Subpoenas/Subpoenas Duces Tecum Compliance Criminal/Civil Appearances).

b. Expenses. State transportation is authorized for use by an employee who is attending a WCAB hearing or trial as a departmental representative. The representative may be reimbursed for expenses by submission of a CHP 262, Travel Expense Claim (see HPM 11.1, Chapter 2, Travel Expense), or by submitting a claim in the California Automated Travel Expense Reimbursement System (refer to HPM 11.1, Chapter 25, California Automated Travel Expense Reimbursement System [CalATERS Global]).

5. DEPARTMENTAL WITNESSES.

a. State Fund Request for Departmental Witnesses. State Fund may request departmental employees to be witnesses when:

- (1) The essential duties of an employment classification require clarification.
- (2) The essential duties of an employment classification require comparison to activities reported by an injured or ill employee to a medical care provider.
- (3) The work performance of an injured or ill employee (e.g., adverse action, memorandum of direction, poor performance, attendance problems) may be relevant to the case.
- (4) The observed physical activities of an injured or ill employee while off duty or on disability leave conflict with those physical activities reported by the employee to an evaluating medical care provider.
- (5) They have knowledge of nonoccupational stressors reported by an injured or ill employee who has filed an injury or illness claim related to occupational stress.
- (6) They can provide reliable information attesting to the credibility of the injured or ill employee relevant to the case.

b. State Fund Attorney Contact with Departmental Witnesses. In advance of the hearing or trial date, the commander shall arrange for the State Fund attorney to

meet with departmental witnesses to review the case in detail and prepare the witnesses for trial.

c. Unavailability of Departmental Witness. If a departmental witness is unable to attend a WCAB hearing or trial, the witness shall immediately notify DRU and State Fund.

6. PUBLIC ACCESS TO WORKERS' COMPENSATION APPEALS BOARD RECORDS. Any documents submitted to the WCAB may become public record. This means the media or any other member of the general public could obtain access to such documents. Parties who may submit such documents to the WCAB include, but are not limited to, an employee's attorney, State Fund, a lien holder, or any other custodians of record. The WCAB is required to redact any personal identifiable information, such as home address, telephone numbers, and social security numbers from these documents.

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