

**GENERAL INFORMATION FOR UNREPRESENTED INJURED WORKERS
ABOUT THE WORKERS' COMPENSATION HEARING PROCESS**

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- 1. Where can I get information about the hearing process?** These FAQs provide general information to help injured workers who are not represented by a lawyer. They are not intended to address every situation or every issue that may come up in the hearing process. This information should not be considered legal advice. There is an informational video entitled “A Guide to Workers’ Compensation Hearings” on the Industrial Commission (hereafter “commission”) website: http://www.ica.state.az.us/ALJ/ALJ_Video_Support.aspx.
- 2. Where else can I get help?** The Industrial Commission Ombudsman can provide information about the workers’ compensation system and the hearing process. The Ombudsman does not give legal advice. The Ombudsman is located at the commission offices in Phoenix. The phone numbers are: In Phoenix: **602-542-4538**; Outside of Maricopa County: **1-800-544-6488**.
- 3. Do I need a lawyer?** The defendants (the employer and the insurance company) will have a lawyer. You can either hire a lawyer or represent yourself. Only a lawyer licensed in Arizona can give legal advice. A workers’ compensation lawyer will be familiar with the laws, rules, and procedures, and can give you legal advice about how to present your case, what evidence you will need, what witnesses to call, and whether it is in your best interest to settle the case. For attorney referral services, see **Frequently Used Addresses and Telephone Numbers** below.

The State of Arizona does not appoint lawyers to represent injured workers. You cannot be represented by a document preparer, paralegal, spouse, family member, or friend. If you represent yourself, you will be expected to know the laws and rules that apply to your case.

- 4. Where can I get the laws and rules that apply in workers’ compensation hearings?** If you are representing yourself, you need to become familiar with the laws and rules that apply to workers’ compensation hearings. Arizona Workers’ Compensation Laws are found in the Arizona Revised Statutes (A.R.S.) §§ **23-101** through **23-1091**. They can be obtained online at <http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=23>. The rules for hearings are in the Arizona Administrative Code (A.C.C.) **R20-5-101** through **R20-5-164**. They can be obtained online at http://www.azsos.gov/public_services/Title_20/20-05.htm. You can also get copies of the laws and rules at the commission offices in Phoenix or Tucson.
- 5. What happens when a request for hearing is filed?** When a request for hearing is filed on your claim, the Claims Division forwards your file to the Administrative Law Judge (ALJ) Division, also known as the hearing division. The file is then referred to an administrative law judge (ALJ). **A.R.S. § 23-941(C)**. The ALJ will send you a **Notice of Hearing** with the date, time, and location of the hearing.
- 6. What is an ALJ?** An ALJ is the judge who will decide your case. The ALJ will schedule the hearings, rule on motions, listen to testimony presented by you and any other witnesses, such as doctors or labor market consultants, review evidence, such as medical reports, apply the law to the facts of your case, and issue a written decision after the last hearing. ALJs are Arizona lawyers with at least five years’ experience. They are appointed by the members of the commission.

7. **How soon will my hearing be scheduled?** The initial hearing is usually scheduled about 90 days after the ALJ Division receives the file. This gives both sides time to prepare their cases.
8. **What if I do not understand English?** You should notify the ALJ what language you *do* understand as soon as possible. The commission will hire an interpreter for the hearings. All written correspondence from the ALJ and the commission will be in English.
9. **What if I change my address while my case is in the ALJ Division?** You are required to notify the ALJ and the defendants if your address changes at any time during the hearing process. Filing a change of address with the post office does **not** meet this requirement. If you do not receive mail from the commission because you have moved without notifying the ALJ, your case could be dismissed or you could lose valuable rights. **R20-5-104.**
10. **How long will my hearing take?** Every case is different. Most cases require more than one hearing to complete. Usually, at the initial hearing, the ALJ will hear testimony from you and any nonexpert witnesses. It may last as little as 30 minutes or it could take several hours. Further hearings are held to take testimony from medical experts and/or labor market consultants. Scheduling further hearings depends on the availability of the experts. It can take weeks or even several months to get everyone scheduled.
11. **Do I have to be present for all of the hearings?** Unless you are excused by the ALJ, you must attend all hearings. **R-20-5-149(A).** This is the only opportunity you will have to question witnesses and present your case to the ALJ.
12. **What is a prehearing conference and do I have to participate in it?** the ALJ may schedule a prehearing conference before the hearing to identify the issues, discuss possible witnesses, review procedures, and address other matters relevant to your case. **R20-5-140.** These conferences are usually conducted by telephone. You must notify the ALJ of the telephone number at which you can be reached for the conference. If you fail to participate, the request for hearing could be dismissed.
13. **What if I want to change the date of my hearing or prehearing conference?** Except in cases of emergency, all requests for changes in scheduling must be made **in writing** to the ALJ, with a copy to the defendants' lawyer. It can be mailed or FAXed to the ALJ Division (Phoenix FAX: **602-542-4135** or Tucson FAX: **520-628-5182**). **R20-5-156.** You must say why you want the continuance (for example, to hire a lawyer or because you are ill), provide any paperwork that supports the request (such as a doctor's note), and tell how much additional time you need. If you do not hear back from the ALJ or your request is denied, you must participate in the hearing or prehearing conference as scheduled. Failure to do so may result in dismissal of the request for hearing.
14. **What if I change my mind about having a hearing?** If you decide you no longer want a hearing, you should inform the ALJ **in writing** as soon as possible by FAX or mail.
15. **Do I have to give the defendants copies of everything I file with the ALJ?** You must give the defendants' lawyer a copy of anything you file with the ALJ. You do not have to give copies of your correspondence with the defendants' lawyer to the ALJ.

16. What is discovery? Discovery is the process for exchanging information before the hearing. Discovery includes signing medical releases, attending depositions, and answering interrogatories. **You are required to cooperate in the discovery process.**

You are required to sign **medical releases** to allow the defendants to obtain medical records, tests, or other information from any doctor or health care provider who has seen or treated you in connection with your industrial injury. **A.R.S. § 23-908(C); R20-5-131(G).**

A **deposition** is an oral question-and-answer session. It is usually conducted at the lawyer's office or by telephone. You must participate if you receive a **Notice of Deposition**. You can ask the defendants' lawyer to change the date or time, but the defendants' lawyer is not required to reset the deposition. Your answers will be under oath and recorded by a court reporter. The ALJ is not present. **R20-5-142; R20-5-143.**

Interrogatories are written questions that you must answer in writing and under oath within ten days after they are served. The answers should be returned to the person who sent them (usually the defendants' lawyer), **not** the commission or the ALJ. **R20-5-144.**

17. Can I refuse to participate in discovery? If you believe the discovery request is improper, you can file a **motion for protective order** with the ALJ, asking to be excused. You must state your reasons for wanting to be excused, and send a copy of the motion to the defendants' lawyer. The ALJ will grant or deny the motion. If you are not excused and you fail to comply, the ALJ may impose sanctions, including dismissal of the request for hearing. **R20-5-145; R-20-5-157.**

18. Do I have to attend an independent medical examination (IME)? An IME is an examination with a doctor picked by the defendants. If you receive a **Notice of IME**, you must attend unless you are excused. You may file a **motion for protective order**, with a copy to the defendants' lawyer, stating your reason for wanting to be excused. You will not be excused because you do not like the doctor chosen by the defendants or because you believe your doctor has provided enough information to prove your claim. Failure to attend an IME can result in a request for hearing being dismissed and/or suspension of benefits. **A.R.S. § 23-1026; R20-5-114.**

19. How do I get witnesses to come to the hearing? The ALJ issues subpoenas for necessary witnesses. You may request subpoenas **in writing** for witnesses you want to testify at the hearing. Lay witnesses must be requested at least 10 days before the hearing (include their address). Medical witnesses must be requested at least 20 days before the hearing. The ALJ cannot make out-of-state witnesses participate in your hearing. **R20-5-141.**

20. Do I have to pay witnesses to testify? The commission does not charge a fee to issue subpoenas. The commission pays medical witnesses a set fee for their participation. The party requesting a nonmedical witness may be required to pay a witness fee and mileage.

21. Will the ALJ get my medical records from my doctor? It is your responsibility to obtain and file medical record that support your position. You must file them with the ALJ at least 25 days before the hearing, and send copies to the defendants' lawyer. **R20-5-155(A). Do not depend on the defendants' lawyer to submit your records.**

- 22. What if I have nonmedical documents or records I want the ALJ to consider?** You can file nonmedical documents and records at least 15 days before the hearing. You must send copies to the defendants' lawyer. **R20-5-155(B).**
- 23. What will the hearing be like?** Most hearings are held in hearing rooms at the commission in Phoenix or Tucson. Outside of Phoenix and Tucson, hearings are held in hotels, government offices, or other facilities that have meeting rooms. **The location of the hearing will be on the Notice of Hearing.** You, the ALJ, the defendants' lawyer, and a court reporter will be present at the hearing. There may also be a representative of the employer or the insurance carrier who is allowed to sit in at all hearings. Witnesses are usually asked to wait outside the hearing room until they are called to testify.

The ALJ will start the initial hearing by introducing the case and identifying the issue(s). Since injured workers usually have the burden of proof, you will go first at the hearing. The ALJ may ask you some preliminary questions. The defendants' lawyer can cross-examine you and your witnesses. You will have the opportunity to cross-examine defense witnesses.

Medical witnesses often testify by telephone at further hearings. The parties usually appear in person but may be permitted to participate by telephone. You should check with the ALJ's office if you are not sure whether you need to attend the hearing in person.

The hearing is your only opportunity to present evidence and prove your case. Bring any notes or papers you think you might need. You should think about what questions you want to ask and write them down before the hearing. Usually, after the last hearing, you will not be allowed to call additional witnesses or submit any additional documents or evidence into the record.

- 24. Will there be a written record of the hearing?** A court reporter creates a written record (transcript) that becomes part of your file. It takes about two weeks for a transcript to be filed. You can review original transcripts at the commission during regular business hours. You can purchase them directly from the court reporter. You cannot buy a transcript or pages of a transcript from the commission while your case is pending before the ALJ. **A.R.S. § 23-941(E).**
- 25. How long after the last hearing will the ALJ decide my case?** The ALJ will issue a written decision (Decision Upon Hearing) usually within 30-60 days after the last transcript is filed and any post-hearing memoranda are submitted. A copy of the decision will be mailed to your last known address of record. **A.R.S. § 23-942.**
- 26. What if I do not agree with the ALJ's Decision Upon Hearing?** There is a paragraph at the end of the decision that sets forth your rights. You have 30 days after the date the decision is mailed to you to file a Request for Review. The ALJ will consider your request and the defendants' response, and then issue a written Decision Upon Review. If you do not file a timely Request for Review, the Decision Upon Hearing will become final. **A.R.S. § 23-942(D).**
- 27. What if I do not agree with the ALJ's Decision Upon Review?** There is a paragraph at the end of the decision that sets forth your rights and gives the address of the Arizona Court of Appeals. You have 30 days after the decision is mailed to file a Petition for Special Action with the Court of Appeals. If you do not file a timely petition, the Decision Upon Review will become final. **A.R.S. § 23-943.**

Frequently Used Addresses and Telephone Numbers

<p>Industrial Commission of Arizona Website homepage: http://www.ica.state.az.us For information about Workers' Compensation: http://www.ica.state.az.us/Claims/Claims_main.aspx To see the video "A Guide to Workers' Compensation Hearings": http://www.ica.state.az.us/ALJ/ALJ_Video_Support.aspx</p>	
<p>Industrial Commission (Phoenix) ALJ Division P. O. Box 19070 Phoenix AZ 85005-9070 602-542-5241 FAX: 602-542-4135</p>	<p>Industrial Commission (Tucson) ALJ Division 2575 East Broadway Blvd Tucson AZ 85716-5303 520-628-5188 FAX: 520-628-5182</p>
<p>Industrial Commission Ombudsman's Office 800 West Washington St Phoenix AZ 85007-2903 602-542-4538 1-800-544-6488 (tollfree outside of Maricopa County)</p>	
<p>Maricopa County Lawyers Referral 602-257-4434</p>	<p>Pima County Lawyers Referral 520-623-4625</p>
<p>State Bar of Arizona (Phoenix) 4201 North 24th St – Suite 200 Phoenix AZ 85016-6288 602-252-4804 Tollfree outside of Maricopa County: 1-888-48-AZBAR (1-888-482-9227)</p>	<p>State Bar of Arizona (Southern Office) 320 South Convent Ave Tucson AZ 85701-2215 520-623-9944</p>
<p>Workers' Compensation Specialists 602-340-7300</p>	<p>State Bar Website: www.azbar.org Click (near bottom) on "Legal Resources." Then click "Find a Certified Specialist." Then click "Workers' Compensation Law."</p>
<p>Arizona Court of Appeals, Division 1 Room 203 1501 West Washington St Phoenix AZ 85007-3235 602-542-4821</p>	<p>Arizona Court of Appeals, Division 2 State Office Building 400 West Congress St Tucson AZ 85701-1352 520-628-6954</p>

The Industrial Commission complies with the Americans with Disabilities Act. Should you or anyone you are requesting for the hearing need special accommodation, contact the presiding ALJ's office immediately.

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