

# Contested Case Hearing

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## Information for Injured Workers from the Division of Workers' Compensation

Workers' compensation is a state-regulated insurance program that pays your medical bills and replaces a portion of your lost wages if you have a work-related injury or illness and your employer has workers' compensation insurance under the Texas Workers' Compensation Act.

If a dispute arises about your claim, the first thing you should do is call the insurance carrier and discuss your problem(s) with your adjuster. If you cannot resolve the dispute or if you are unable to talk with your adjuster, you may contact the Texas Department of Insurance, Division of Workers' Compensation for assistance.



Customer service employees can:

- explain your rights and responsibilities;
- help you complete required forms;
- explain the dispute resolution process;
- explain how to gather facts and evidence to

support your side of the dispute;

- explain the deadlines for requesting the next level of dispute resolution or for responding to requests for documents; and
- help you attempt to resolve disputes informally.

If you are unable to resolve the dispute, you may request dispute resolution through the Division. You may be required to attend one or more dispute resolution proceedings held at the local Division office. Once a Benefit Review Conference is scheduled, an Ombudsman can help you if you do not have an attorney or other representative to present your side of the dispute.

### What is Dispute Resolution?

There are several steps in the dispute resolution process in a workers' compensation claim:

- Benefit Review Conference
- Arbitration or Contested Case Hearing
- Appeals Panel
- Judicial Review

This publication is a summary and is presented for informational purposes only. It is not a substitute for the statute and Division rules. For questions about Division rules, please call Customer Assistance at 1-800-252-7031. CS05-014E(3-07)

### Contested Case Hearing (CCH)

[Sections 410.151 – 410.169, Rules 142.1 – 142.20]

Following a Benefit Review Conference if you do not choose arbitration, a contested case hearing (CCH) is the next level of dispute resolution. The CCH is a formal hearing conducted by a Division Hearing Officer who makes a decision about the disputed issue(s) that were not resolved at the benefit review conference. You and the insurance carrier must attend the CCH. The hearing is recorded, an official record is made, and sworn testimony is taken.

In preparation for the CCH, parties are required to exchange the following information within Division prescribed time frames:

- all medical reports and reports of expert witnesses who will be called to testify at the CCH;
- all medical records;
- any witness statements;
- the identity and location of any witness known to the parties to have knowledge of relevant facts; and
- all photographs or other document that a party intends to offer into evidence at the hearing.

If additional information is necessary, your request for more information is limited to:

- depositions on written questions to any health care providers;
- depositions of other witnesses as permitted by the hearing officer after showing good cause;
- interrogatories prescribed by the Division; and
- when a hearing officer grants permission to obtain additional discovery as necessary when good cause is shown by the party.

Following the CCH, you will receive the hearing officer's written decision and order by mail. If you disagree with the hearing officer's decision, the decision may be appealed to the Division's Appeals Panel.

Along with a copy of the Hearing Officer's decision and order, you will receive instructions regarding the timeframe to appeal.

**For further assistance, call  
1-800-252-7031  
or visit  
[www.tdi.state.tx.us](http://www.tdi.state.tx.us)**

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Page 2

## Attending Proceedings

You must attend any dispute resolution proceeding related to a dispute about your claim, even if you did not request the proceeding. If you do not attend, the proceeding may be held without you present to give your side of the dispute. In addition, you may be fined if you do not attend a scheduled dispute resolution proceeding.

## Ombudsman Assistance

An Ombudsman is a specially trained employee of the Office of Injured Employee Counsel (OIEC) who can assist you free of charge if you have a dispute related to your claim. You may ask for help from an Ombudsman if you have not hired an attorney to represent you and you do not have any other type of representation. Ombudsmen may not give you legal advice, make any decisions for you or sign agreements or forms.

An OIEC Ombudsman can help you with a dispute resolution proceeding by:

- giving you information to help you make decisions;
- communicating with employers, insurance companies, and health care providers on your behalf;
- explaining how to gather and prepare facts and evidence for dispute resolution proceedings;
- helping you present your facts and evidence at dispute resolution proceedings;
- helping you ask questions of witnesses and raise questions about evidence at dispute resolution proceedings; and
- giving you information about how to appeal a dispute resolution decision.

You may request Ombudsman assistance by calling 1-866-EZE-OIEC (1-866-393-6432). For more information on Ombudsman assistance see <http://www.oiec.state.tx.us/topics/ombudsman.html>.

## Attorney Representation

You may hire an attorney to represent you for your claim. An attorney may attend dispute resolution proceedings with you and present any evidence that supports your side of the dispute.

If you hire an attorney, the attorney's fees will be deducted from your income benefit payments as ordered by the Division. The attorney's fees are limited to no more than 25 percent of the total amount of your income benefits, and payments may not exceed 25 percent of any one income benefit check.

An attorney may charge up to a maximum of \$150 per hour, plus expenses, for work performed on your workers' compensation claim. If you dismiss your attorney for any reason, the fees that have been ordered by the Division will continue to be deducted from your income benefit check until all ordered fees have been paid.

You may contact the State Bar of Texas for assistance in obtaining an attorney to represent you at [www.texasbar.com](http://www.texasbar.com) or by phone at 1-800-252-9690.