

COVID-19: Virginia Workers' Compensation Update | June 12, 2020

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Commission Announced Limited Availability for Full and Final Mediations, and Issued an Order to Return to In-Person Hearings

June 12, 2020: Commission Announced Limited Availability for Full and Final Mediations

The Commission is currently experiencing limited mediator availability statewide as they focus on conducting hearings which were canceled this spring due to COVID-19. The Alternative Dispute Resolution Department is currently working with a waiting list, and is encouraging mediation by telephone or video conference.

On May 21, 2020, the Commission entered an order setting forth the conditions under which in-person hearings may occur. Those same conditions apply to in-person mediations and include temperature checks and screening prior to entering a Commission facility, and wearing a mask at all times while being in a Commission facility. Additionally, all persons must remain six feet apart and no more than ten persons may occupy any given space. The Commission will not be providing candy or water for mediations, as offered in the past.

In order to comply with these requirements, in-person mediation availability is limited and cannot be guaranteed. They have had success with mediating by video and telephone using WebEx. More information on WebEx may be found [here](#).

May 21, 2020: Commission Orders Return to In-Person Hearings

On May 6, 2020, the Virginia Supreme Court entered its Fourth Order Modifying and Extending Declaration of Judicial Emergency in Response to COVID-19 Emergency, extending the current Judicial State of Emergency through June 7, 2020, but allowing in-person civil proceedings to resume in certain circumstances beginning May 18, 2020.

1. All evidentiary hearings scheduled through June 10, 2020, will remain scheduled as video conference hearings, subject to all of the terms and conditions of the April 6, 2020 Order. Deputy Commissioners retain discretion to allow any attendee at a video hearing who is experiencing technical difficulties with the video portion of the event to participate via telephone.
2. All evidentiary hearings scheduled on or after June 11, 2020 will be conducted in-person subject to the requirements of this Order. Deputy Commissioners retain discretion to allow any attendee to participate in the hearing by video or telephone when requested and where appropriate.
3. Notwithstanding the preference for conducting hearings by video

conferencing or telephone, effective June 1, 2020, the Commission will hold in-person hearings upon request if determined it is safe to do so and provided that the parties comply with all of the requirements of this Order to minimize the risk of the spread of COVID-19 from in-person court proceedings.

4. Individuals will be prohibited from entering a Commission office or hearing location if they have a temperature in excess of 100.4 degrees F/ 38.0 degrees C, or if they have within the previous 14 days: traveled internationally; been directed to quarantine, isolate, or self-monitor; been diagnosed with, or have had contact with anyone who has been diagnosed with, COVID-19; experienced a fever, cough, or shortness of breath; or resided with or been in close contact with any person in the above-mentioned categories.
5. Individuals will be required to wear a mask and gloves before entering, and at all times while inside, Commission facilities. Deputy Commissioners may permit witnesses to temporarily lower their face masks when testifying if necessary and appropriate.
6. Occupancy in any one courtroom or waiting area will be limited to ten persons. In order to ensure recommended social and physical distancing, it may be necessary to further limit the number of people present in the courtroom or Commission facility at any given time as this number will necessarily be limited by the size of the courtroom to ensure that those present can remain six feet apart.
7. Hearings conducted in facilities other than the Commission's offices shall be further subject to the requirements and restrictions of those facilities. Some facilities may not be available, necessitating a change in venue or hearing date.
8. Deputy Commissioners are granted broad authority to adopt additional procedures to ensure the safety of persons appearing before the Commission as well as the safety of Commission staff. This discretion will include the granting of continuances if necessary to ensure that safety in light of the ongoing emergency.

Commission and security personnel will conduct a non-invasive temperature screening prior to entry to Commission facilities and will query visitors regarding the above. Individuals with an excessive temperature or with any affirmative response will not be permitted to enter a Commission office or hearing location. Commission and security personnel shall direct individuals with any affirmative response to contact the Customer Contact Center at 1-877-664-2566. The Contact Center Specialist will direct the call to the appropriate judicial office to receive further instruction regarding alternate arrangements for access to the Commission offices or participation in hearings.

The 5-21-20 Order can be found [here](#).

The Commission is working diligently to assist our customers as needed. If you have any other questions, please contact VWC at 1-877-664-2566 or questions@workcomp.virginia.gov.

Questions? [Contact one of MGC's workers' compensation attorneys.](#)

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