

Kansas Administrative Regulations

Department of Labor—Division of Workers Compensation

Article 3.—Termination of Compensable Cases

51-3-8. Pretrial stipulations.

The parties shall be prepared at the first hearing to agree on the claimant's average weekly wage, unless the weekly wage is to be made an issue in the case.

(a) Before the first hearing takes place, the parties shall exchange medical information and confer as to what issues can be stipulated to and what issues are to be in dispute in the case. The following stipulations shall be used by the parties in every case:

QUESTIONS TO CLAIMANT

(1) In what county is it claimed that claimant met with personal injury by accident? If in a different county from that in which the hearing is held, then the parties shall stipulate that they consent to the conduct of the hearing in the county in which it is being held.

(2) Upon what date is it claimed that claimant met with personal injury by accident?

(3) Upon what date is it claimed that claimant met with personal injury by repetitive trauma?

QUESTIONS TO RESPONDENT

(4) Does respondent admit that claimant met with personal injury by accident on the date alleged?

(5) Does respondent admit that claimant met with personal injury by repetitive trauma on the date alleged?

(6) Does respondent admit that claimant's alleged personal injury "arose out of and in the course" of claimant's employment?

(7) Does respondent admit proper notice?

(8) Does respondent admit that the relationship of employer and employee existed?

(9) Does respondent admit that the parties are covered by the Kansas workers compensation act?

(10) Did the respondent have an insurance carrier on the date of the alleged accident? If so, what is the name of the insurance company? Was the respondent self-insured?

(11) Does respondent admit that the accident or repetitive trauma was the prevailing factor causing the injury, the medical condition, and the resulting disability or impairment?

QUESTIONS TO BOTH PARTIES

(12) What was the average weekly wage?

(13) Has any compensation been paid?

(14) Has any medical or hospital treatment been furnished? Is claimant making claim for any future medical treatment?

(15) Has claimant incurred any medical or hospital expense for which reimbursement is claimed?

(16) What was the nature and extent of the disability suffered as a result of the alleged injury?

(17) What medical and hospital expenses does the claimant have?

(18) What are the additional dates of temporary total disability, if any are claimed?

(19) Is the workers compensation fund to be impleaded as an additional party?

(20) Have the parties agreed upon a functional impairment rating?

The same stipulations shall be used in occupational disease cases, except that questions regarding "personal injury" shall be changed to discover facts concerning "disability from occupational disease" or "disablement."

(b) An informal pretrial conference shall be held in each contested case before testimony is taken in a case. At these conferences the administrative law judge shall determine from the parties what issues have not been agreed upon. If the issues cannot be resolved, the stipulations and issues shall be made a part of the record.

(c) The respondent shall be prepared to admit any and all facts that the respondent cannot justifiably deny and to have payrolls available in proper form to answer any questions that might arise as to the average weekly wage. Evidence shall be confined to

the matters actually ascertained to be in dispute. The administrative law judge shall not be bound by rules of civil procedure or evidence. Hearsay evidence may be admissible unless irrelevant or redundant.

(d) All parties shall be given reasonable opportunity to be heard. The testimony taken at the hearing shall be reported and transcribed. That testimony, together with documentary evidence introduced, shall be filed with the division of workers compensation, where the evidence shall become a permanent record. Each award or order made by the administrative law judge shall be set forth in writing, with copies mailed to the parties.

(e) Permission to withdraw admissions or stipulations shall be decided by the administrative law judge, depending on the circumstances in each instance.

(f) Subpoena forms shall be furnished by the director upon request. The party subpoenaing witnesses shall be responsible for the completion, service, and costs in connection with the subpoenas.

(Authorized by K.S.A. 44-573; implementing K.S.A. 2010 Supp. 44-523, as amended by L. 2011, ch. 55, sec. 17, and K.S.A. 2010 Supp. 44-551; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended Jan. 1, 1974; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended May 22, 1998; amended Dec. 23, 2011.)

***** Authenticated Kansas Administrative Regulation *****