

Dispute Resolution

Disputes may include, but are not limited to:

- Compensability of a claim, in whole or in part;
- Calculation of the compensation rate;
- Correct impairment;
- Reasonableness and necessity of medical treatment; and
- Vocational rehabilitation.

The dispute resolution process begins upon receipt of a Notice and Application for Hearing (also called Form 6), or comparable written notice, from the injured worker or the insurance adjuster, or their legal representatives, and in some instances, a medical provider.

Purpose of the Informal Resolution

The purpose of an informal conference is to identify and discuss disputed issues in an attempt to resolve the dispute(s). It's an opportunity for the parties to ensure they have complete information, clear up any misunderstandings or miscommunication involving factual issues and allow the parties to identify the specific evidence they are relying on to support their respective positions.

Evidence may include, but is not limited to, specific medical records, a medical opinion, witness statements, and affidavits. Parties may also reference to specific laws, rules, or prior hearing decisions by the Commissioner or the Vermont Supreme Court that may be applicable and set precedent on the particular issues in dispute.

This office does not request medical records from medical providers or otherwise gather evidence for the parties. It is the responsibility of each party to gather and file with the Department and the opposing party or its representative copies of the medical records and other documents relied upon in the informal resolution process.

Role of the Specialist

The role of the Department Specialist is to review the evidence submitted by the parties and make a determination as to whether the insurer is responsible for payment of workers' compensation benefits under the Vermont's Workers' Compensation Act.

The Specialist will take one or more of the following steps to address a hearing request based on the evidence presented and the information already on file with the Department:

- Schedule an informal telephone conference;
- Request that additional information be submitted before scheduling an informal telephone conference;
- Make a recommendation to the insurer to pay benefits and set a deadline for response;
- Issue an Interim Order requiring an insurer to pay benefits at any time before, during or after an informal conference.
- Schedule additional conferences if it appears additional conferences may lead to the resolution of the dispute;

- Send the parties a letter briefly outlining the results of the conference and the Specialist's decision based on the information that was available at the time that each conference is held, which may include upholding the insurer's position or issuing an Interim Order requiring payment of benefits in whole or in part.
- Refer the matter to the formal hearing docket if it is apparent that no progress towards resolution is likely at the informal level.

Representation

The parties are not required to be represented during the informal resolution process but may choose to be. It is entirely the decision of the injured worker or the insurance adjuster whether to retain counsel to represent their interests.

The Department does not represent the injured worker, the employer or the insurer.

Difference between the Informal and Formal Process

The informal conference is conducted over the telephone and is not recorded. The formal hearing requires in-person attendance of the parties or their legal representatives. During the informal conference, the parties are not placed under oath and verbal testimony of witnesses and medical experts is not taken. The formal hearing is recorded, the parties' testimony is under oath, and witnesses and experts testify and are cross-examined.