



Kentucky Labor Cabinet

Department of Workers' Claims

Andy Beshear
Governor

Jacqueline Coleman
Lieutenant Governor

Larry L. Roberts
Secretary

Robert L. Swisher
Commissioner

MEMORANDUM

TO: All Workers' Compensation Stakeholders

FROM: Robert L. Swisher, Commissioner

DATE: October 29, 2020

RE: Announcement of mediation program

KRS 342.276 requires the Commissioner to develop a regulation to implement a mediation program. CALJ Gott has been informally mediating claims for two years, and the response to DWC's offering of that service has been highly positive. It is thus an opportune time to implement a formal mediation program to assist stakeholders with resolution of claims.

Beginning November 1, 2020, three ALJs will be assigned to mediate claims each month; those ALJs will not have a BRC/Hearing docket during that month. Motion for mediation will be made to the ALJ to whom the claim is assigned, and that ALJ will refer the claim to the ALJ with whom he or she is paired for mediations during that month, subject to a limited

number of mediation sessions being available each month. A link to the proposed mediation program regulation, 803 KAR 25:300, is provided below. The regulation describes the scope of the mediation program and establishes the process by which parties may request a referral to mediation.

Initially, all mediations will occur via Zoom. Within two weeks of Governor Beshear's declaration of a state of emergency in the Commonwealth over the coronavirus pandemic, DWC had adopted the Zoom virtual platform to conduct its proceedings. All stakeholders are to be commended for their positive response to the abrupt change in procedure. ALJs just reached the milestone of having conducted 1,000 hearings and mediations via Zoom. The feedback from use of Zoom has been overwhelmingly positive. It is a feature that will continue to have use after the state of emergency is lifted and in-person proceedings are permitted to resume.

Parties are reminded that "courtroom attire" is expected with any Zoom proceeding

Link to [803 KAR 25:300](#)



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