

WAC 263-12-093 Conferences—Disposition of appeals by agreement.

(1) If an agreement concerning final disposition of any appeal is reached by all the parties present or represented at a conference, an order shall be issued in conformity with their agreement, providing the board finds the agreement is in accordance with the law and the facts.

(a) In industrial insurance cases, if an agreement concerning final disposition of the appeal is reached by the employer and worker or beneficiary at a conference at which the department is represented, and no objection is interposed by the department, an order shall be issued in conformity with their agreement, providing the board finds that the agreement is in accordance with the law and the facts. If an objection is interposed by the department on the ground that the agreement is not in accordance with the law or the facts, a hearing shall be scheduled.

(b) In cases involving the Washington Industrial Safety and Health Act, an agreement concerning final disposition of the appeal among the parties must include regardless of other substantive provisions covered by the agreement: (i) A statement reciting the abatement date for the violations involved, and (ii) a statement confirming that the penalty assessment for contested and noncontested violations has or will be paid.

(c) Where all parties concur in the disposition of an appeal but the industrial appeals judge is not satisfied that the agreement is in conformity with the facts and the law or that the board has jurisdiction or authority to order the relief sought, the industrial appeals judge may require such evidence or documentation necessary to adequately support the agreement in fact and/or in law.

(2) All agreements reached at a conference concerning final disposition of the appeal shall be stated on the record by the industrial appeals judge and the parties shall indicate their concurrence on the record. The record may either be transcribed by a court reporter or recorded and certified by the industrial appeals judge conducting the conference.

The industrial appeals judge may, in his or her discretion accept an agreement for submission to the board in the absence of one or more of the parties from the conference, or without holding a conference.

(a) In such cases the agreement may be confirmed in writing by the parties to the agreement not in attendance at a conference, except that the written confirmation of a party to the agreement not in attendance at a conference will not be required where the industrial appeals judge is satisfied of the concurrence of the party or that the party received notice of the conference and did not appear.

(b) In cases where no conference has been held but the parties have informed the judge of their agreement, yet no written confirmation has been received, a final order may be issued which encompasses the agreement.

(3) In the event concurrence of all affected employees or employee groups cannot be obtained in cases involving agreements for final disposition of appeals under the Washington Industrial Safety and Health Act, a copy of the proposed agreement shall be posted by the employer at each establishment to which the agreement applies in a conspicuous place or places where notices to employees are customarily posted. The agreement shall be posted for ten days before it is submitted to the board for entry of the final order. The manner of posting shall be in accordance with WAC 263-12-059. If an objection to the

agreement is interposed by affected employees or employee groups prior to entry of the final order of the board, further proceedings shall be scheduled.

(4) The parties present at a conference may agree to a vocational evaluation or a further medical examination of a worker or crime victim, including further evaluative or diagnostic tests, except such as require hospitalization, by medical or vocational experts acceptable to them, or to be selected by the industrial appeals judge. In the event the parties agree that an order on agreement of parties may be issued based on the report of vocational evaluation or medical examination, the industrial appeals judge may arrange for evaluation or examination and the board will pay reasonable and necessary expenses involved. Upon receipt by the board, copies of the report of such examination or evaluation will be distributed to all parties represented at the conference and further appropriate proceedings will be scheduled or an order on agreement of parties issued. If the worker or crime victim fails to appear at the evaluation or examination, the party or their representative may be required to reimburse the board for any fee charged for their failure to attend.

[Statutory Authority: RCW 51.52.020. WSR 18-24-123, § 263-12-093, filed 12/5/18, effective 1/5/19; WSR 06-12-003, § 263-12-093, filed 5/25/06, effective 6/25/06; WSR 03-02-038, § 263-12-093, filed 12/24/02, effective 1/24/03; WSR 00-23-021, § 263-12-093, filed 11/7/00, effective 12/8/00; WSR 91-13-038, § 263-12-093, filed 6/14/91, effective 7/15/91. Statutory Authority: RCW 51.41.060(4) and 51.52.020. WSR 83-01-001 (Order 12), § 263-12-093, filed 12/2/82. Statutory Authority: RCW 51.52.020. WSR 82-03-031 (Order 11), § 263-12-093, filed 1/18/82; Order 7, § 263-12-093, filed 4/4/75.]