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Practice Note 7

Practice Note 7: The Arbitration Pre-Hearing Discussion

Parties to an arbitration are usually required to participate in one or more pre-hearing discussions of their case before the actual arbitration hearing. This discussion generally takes place within 6 to 8 weeks after the applicant receives the insurance company's **Response by Insurer**.

Parties are expected to have exchanged all documents identified in the **Application for Arbitration** and the **Response by Insurer**, or to have provided the other party with a written explanation why a document has not been provided, prior to the pre-hearing discussion.

WHY DO WE HAVE A PRE-HEARING DISCUSSION?

The pre-hearing discussion gives the parties an opportunity to talk with an arbitrator about the case before the hearing. The arbitrator will:

- attempt to settle some or all of the issues in dispute;
- clarify the issues to be arbitrated;
- explain the rules of the hearing;
- review what witnesses and evidence will be brought to the hearing;
- review each party's list of outstanding document requests and disputed items;
- decide which documents should be exchanged where the parties cannot agree;
- set a mutually convenient date and location for the hearing.

DOES EVERYONE MEET IN PERSON?

The pre-hearing discussion can be held in person or by telephone conference call, at the arbitrator's discretion.

Whether the discussion is in person or by telephone, both the applicant and the representative from the insurance company should take part. Arbitrators have noted that the absence of parties from the pre-hearing frequently impedes settlement discussions – even when the parties are represented by legal counsel who participate in the pre-hearing on their behalf.

Clients who cannot participate in person are expected to be available to participate in the pre-hearing discussion by phone.

An arbitrator will chair the discussion. The arbitrator who chairs the pre-hearing discussion will generally not be the one who hears the case.

WHAT DO I BRING TO THE PRE-HEARING DISCUSSION?

PRINT

SHARE

http://www.fSCO.gov.on.ca/en/drs/DRP-Code/Pages/practicenote-7.aspx[19/01/2012 1:34:51 PM]

Don't wait for the pre-hearing discussion to begin preparing your case.

Get updated medical information, financial documents, or recent tax returns **BEFORE** the pre-hearing discussion.

Parties must exchange copies of all the documents they intend to use at the actual hearing well before the pre-hearing discussion. (See **Practice Note 4**, "Exchange of Documents").

If you have been unable to exchange documents in advance, please bring along two sets of photocopies: one for the arbitrator and one for the other party. These photocopies will be exchanged at the pre-hearing.

The arbitrator will ask about the witnesses who will be called during the hearing. Witnesses typically provide information about the accident, about the applicant's employment and income, or about the applicant's medical condition.

HOW LONG AFTER THE PRE-HEARING DISCUSSION UNTIL THE HEARING?

At the pre-hearing, the arbitrator will set a convenient date for the hearing. Generally, this date will be within four to six months of the pre-hearing discussion. Once this date is set, changes will only be made in special circumstances. (See **Practice Note 9**, "Adjournments").

You must have all your papers, updated medical reports and witnesses ready for the hearing date set.

HOW DO I GET MORE INFORMATION?

Our telephone numbers are:

- from Toronto, call (416) 250-6714 
- from outside Toronto, phone 1- 800-517-2332 

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