

## AIAC HEARING GUIDELINES

These guidelines are provided to assist in your **Automobile Injury Appeal** hearing.

Shortly after receiving the Notice of Hearing, you will receive an appeal package. A copy of the appeal package is sent to each party and all Commission Members assigned to hear the appeal. The appeal package includes all documents filed by the Appellant and Saskatchewan Government Insurance (SGI) prior to the hearing. Review this package and bring it to your hearing.

### Protocol

- All steps of the hearing are recorded.
- To appropriately address the chair, use either “Mr./Mrs. Surname” or “Madame/Mr. Chair”.
- With the exception questioning witnesses, all questions of the parties with respect to each other’s submission shall be directed through the Chair of the panel.

### Hearing Process

- While hearings are open to the public, interest is typically only expressed by appellants who wish to observe as a way to prepare for their own appeal. When the Commission is made aware of attendance by the public, you will be informed as a matter of courtesy.
- The Chair of the panel will open the hearing with an introduction of all parties present in the hearing room. They will give a brief overview of the appeal hearing and promote appropriate conduct by all participants.
- The Chair invites the Appellant to provide a verbal statement briefly outlining the decision or benefits they are appealing and the reason(s) for their appeal. SGI will then be invited to provide their statement.
- The Appellant is then asked to present their case to the panel and submit the relevant evidence (witness testimony or documents) as necessary. Cross-examination by SGI and the presiding panel will follow immediately after.
- SGI will then present their case along with evidence (witness testimony or documents) defending their decision. Cross-examination by the Appellant and the presiding panel will follow immediately after.
- **When submitting documents as evidence, the panel will expect the parties to refer to the number located on the top right hand corner of the document. The party should then explain the relevance of the document.**
- The chair will invite the Appellant and SGI to make closing remarks and summarize their cases respectively.
- Appellants should include any requests for costs in their closing remarks.
- Commission Members may adjourn the proceedings for a variety of reasons such as; additional information, interpretation of evidence, expert or professional opinions, etc.

## **Special Needs**

If you, your witness or guests have a disability and require special arrangements, please contact the Commission immediately upon receipt of your Notice of Hearing.

## **Interpreters**

When requested, the Commission will assist you with an interpreter. If the Commission is unable to locate an interpreter, you may be responsible for recommending an individual to interpret on your behalf. In doing so, provide us with their name and telephone number. We will contact the interpreter directly to arrange for their services, negotiate payment, assess their qualifications and inform them of the expectation that they will interpret the proceedings accurately. The Commission will pay the agreed amount directly to the interpreter.

## **Record of Proceedings**

Commission proceedings are recorded. The Chair of the Panel may direct a transcript of the hearing be taken and issued to the panel. Upon written request and payment of fees, parties may request a copy of the transcript from the Commission. The Commission will not permit the parties to the proceedings, or any member of the public, to make their own audio or visual recording of the proceedings.

## **Documents as Evidence**

All documents used as evidence in the proceedings should already have been filed with the Commission. Once the hearing is scheduled, an appeal package is prepared and provided to both parties and the Commission Members hearing the appeal. The appeal package consists of only those documents filed by the Appellant and SGI. Unless requested otherwise, documents are sorted in chronological order and numbered sequentially in the top right hand corner.

When referring to the documents for submission of evidence, the parties should refer to the number located on the top right hand corner. This ensures accurate reference to the relevant evidence submitted by the parties.

Where documents are filed after the appeal package is distributed but before the hearing takes place, the Commission office will sort, number and prepare copies for the parties and panel member. It may be necessary to hand deliver these packages on the day of the hearing.

If the parties identify documents that have not been filed with the Commission, that they would like to use as evidence, they should bring a copy of the document to the hearing and deliver it to the clerk of the proceedings. The clerk will number the document and provide a copy to all participants unless technical difficulties prevent the opportunity to do so.

If, during the course of the hearing, reference is made to documents not available to the parties, the Commission may consider receipt of the documents after the opposing party has had an

opportunity to respond in writing. Documents existing at the time of the hearing which were not referenced at the hearing will be forwarded to the opposing party for their agreement and/or response before consideration will be given to forwarding to the assigned Commission Members.

### **Witness Testimony as Evidence**

Upon receipt of the Notice of Hearing, each party is responsible for informing their witnesses of the date, time and location of the hearing.

If you inform the Commission that one or more of your witnesses will be testifying by telephone, arrangements will be made to obtain their testimony by speakerphone which is included in the record of proceedings. **The parties must provide the Commission, within fourteen calendar days prior to the hearing, the telephone number(s) that each witness can be reached at on the date of the hearing.** Since neither a specified or estimated time of contact can be provided to these witnesses, they should be available from the commencement time of the hearing to the end of business hours on the date of the hearing. *If able to do so, the Commission makes every attempt to accommodate both parties in contacting witnesses at a prescribed time. Please bring these matters to the attention of the Chair during your opening statement.*

Witnesses may be excluded from the hearing until they are called to give their testimony. Their testimony is deemed to be the evidence you are relying on to support your claim.

All witnesses will be required to promise to tell the truth.

### **Subpoena**

If you require assistance in bringing your witness or an author of the opposing party's documentary evidence to the hearing, you may request the Commission to assist you. Simply telephone the Commission at 1-866-798-5544 (toll free) or 798-5545 (Regina) providing the name and address of each individual you wish to bring to the hearing. The Commission will prepare the subpoena and arrange for issue by the Chief Commissioner.

Once issued, the Commission will return the documents to you. It is your responsibility to arrange for service on each witness which must be taken no later than 10 days prior to the hearing. If you need to expedite the process, you may make arrangements with a service agency and provide the Commission with a request to send the issued subpoenas directly to that agency.

Either way, you or the person executing the service must complete an Affidavit of Service. This affidavit must be sworn before a Commissioner of Oaths and brought to your hearing along with a copy of the subpoena served on the witness.

You assume full responsibility for all costs incurred as a result of the subpoena including witness fees. Keep all receipts if you wish to include the expense in a request for costs.

## Costs

In accordance with Section 98(2) of *The Personal Injury Benefits Regulations*, the Commission has the authority to order costs on request if a party discontinues or abandons an appeal.

If the Appellant is successful in their appeal and the application fee was paid, the Appellant will receive a refund of the fee processed by the Commission. The Commission can, pursuant to Section 193(11) and 194 of *The Automobile Accident Insurance Act*, order Saskatchewan Government Insurance to reimburse successful Appellants costs to a maximum of \$2,500. These costs include all reasonable expenses incurred from the date of filing the appeal to the date of the Commission's decision. Costs may include an advocate's fees but does not include lawyer fees.

## Decision

The Commission makes every attempt to render a decision as soon as possible after completion of the hearing. If a decision is delayed because additional information is required by the panel, the parties will be notified. In this case, the decision will be made after receipt of all new information or after receipt of additional submissions resulting from the new information.

The Commission will provide the Appellant and SGI with written reasons for its decision. **The written reasons include reference to evidence submitted by both parties including the personal health information of the Appellant.** This decision is binding on both parties. Either party may appeal the decision to the Court of Appeal on a question of law only.

**Once the appeal period is expired, the decision is posted on the Commission's website but with the Appellant's name and other identifying information masked. However, copies of the original decision – including the Appellant's name and identifying information – will be available from the Commission office upon request.**

## Variation

New information that did not exist at the time of the hearing should be forwarded to your personal injury representative for review.

Either party who believes there is a material change in the facts or circumstances since the Commission's original decision was made may apply to the Commission for leave to make an application for variation. A copy of the application must first be served on the other party. The application must then be forwarded to the Commission along with proof of service and relevant documents demonstrating the material change. There is no cost to submit an application for leave.

If the Commission deems there has been a material change, it may grant leave for the party to proceed with the application for variation. A \$75.00 application fee is required with the application for variation. A Variation Hearing will be scheduled with every effort to assign the original panel of Commission Members to the hearing unless appointed members are not available or the party specifically requests a new panel.