

When a worker is [injured](#) on the job or is unable to work due to an occupational illness, the workers' compensation process often proceeds smoothly. In some cases, however, disputes can arise as to a variety of issues. When disputes arise and cannot be resolved, a hearing will be held by a deputy commissioner of the North Carolina Industrial Commission. While the hearing is not a jury trial or presided over by a judge, you should take this hearing very seriously as it will determine whether or not you receive the [benefits](#) you are entitled to. Working with a skilled [workers' compensation attorney](#) can dramatically improve your chances of obtaining a successful result at your hearing.

Mandatory Mediation

The hearing process begins when you file Form 33, "Request That Claim Be Assigned for a Hearing." Once it is received by the NCIC, you will be required to attend mediation. Mediation is an informal process whereby the parties (you and someone on behalf of your workers' comp insurance company) meet with a mediator, a neutral third party. The mediator will not decide the outcome of the dispute. Instead, they will attempt to facilitate a settlement of the dispute between you and your insurance carrier.

You will be required to attend this meeting but can attend with your lawyer if you have one. Your insurance company will likely be represented by counsel or someone who has settlement authority. Both parties will meet with the mediator and present opening statements that summarize the facts, the dispute, and their positions. The parties will then separate and meet with the mediator individually. The mediator will act as a go-between who will attempt to work with both parties to help them settle the claim.

If you are unable to settle your claim in mediation, you will then proceed to your hearing. That said, do not treat your mediation as an inconvenience or a stepping stone to the main event. This is your opportunity to demonstrate the strength and validity of your claim and encourage the insurance company to approve your claim. Furthermore, the sooner your dispute is resolved, the sooner you can get the benefits you need. Lastly, this is an opportunity to understand the reasoning behind the insurance company's denial of your claim. A workers' compensation attorney can protect your interests throughout the mediation process and help you work toward a fair resolution.

Scheduling the Hearing

If your claim is not resolved at mediation, your dispute will be scheduled for a hearing. On average, you will receive the hearing date approximately two to three months following your mediation.

The time leading up to your hearing should be one of intense preparation. Both sides are required to submit a list to the deputy commissioner that includes the following:

- Who you intend to have testify at the hearing
- What documents and other evidence you intend to introduce in support of your position
- Who you intend to depose after the hearing

If you fail to include any of these things on your list, the other side can object to their use and you may be prohibited from introducing them into the record. Depending on the evidence of testimony you need to submit, this could be devastating to your case. You, therefore, need to think very carefully about what documents and testimony you will need to prove your claim.

You also need to review your documents and know what your witnesses will say well in advance of the hearing. For example, your [medical records](#) may contain some ambiguities that could be interpreted in favor of the insurance company. A witness's recollection may not be as clear as they previously claimed. You want to have your evidence and witnesses well in hand before you submit your list to the deputy commissioner.

Preparing for the hearing can be a daunting task for non-lawyers. An experienced workers' compensation attorney can help. They will know what evidence you will need, how to get it, and what to do to make sure your claim is as strong as possible.

You May Be Expected to Testify

You should also be aware that you will be expected to testify under oath at the hearing. For many claimants, this can be nerve-wracking. You will likely only have to testify as to what happened that caused your injury and how it limits your ability to work. However, you will be subject to cross-examination by counsel for the insurance company.

This is another reason why you should consider working with a workers' compensation attorney - they can prepare you for your testimony and help you anticipate questions from the opposing party. Alternatively, they may be able to find a way to prove your case without your testimony. They will know how to maximize your chances of a successful

outcome.

The Hearing

The hearing before the deputy commissioner will be a formal, quasi-judicial process. The hearing often follows a similar pattern:

1. Both parties will have the opportunity to make an opening statement that summarizes their position.
2. You, as the claimant, can put on your case. You will submit the evidence you have to support your claim and call your witnesses. The insurance company, as the respondent, will have the opportunity to challenge your evidence and cross-examine your witnesses.
3. Once you have introduced all of your evidence and called all of your witnesses, the respondent will have the opportunity to put on their case. You will be able to challenge their evidence and cross-examine their witnesses.
4. Once the insurance company's case is complete, both parties will be given an opportunity to make a closing statement.

The deputy commissioner will not render a decision at the hearing itself. Instead, they will carefully review the entire hearing record, including all testimony and other evidence, along with any depositions that take place after the hearing. Once they have completed their review, they will issue a written decision. The decision may not be issued until several weeks following the hearing. If you do not get the result you had hoped for, the next step is to request a hearing before the full commission.

Position Yourself for Success - Contact Martin & Jones Today

At Martin & Jones, the bottom line is that we help injured workers get the benefits they need. [Contact us](#) today by calling 800-662-1234 to schedule a free consultation with a workers' compensation attorney who knows how to get results.