

MANAGING CASES AT THE ALJ LEVEL

How to speed up and rationalize the
process



The Office of ALJs Supports a Dialogue on These Issues





Chief ALJ Henley wants employer counsel involved

Welcome Bill Mattingly

The goal of the Office of ALJs: a decision in 12 months.

The office of Inspector General (2017): 640 days to a decision

An Unscientific Survey:

My Last Ten Decisions

Average Time from Referral to ALJ to
Written Decision: 829.91 Days

2.27 Years

Average Time from Hearing to Decision

301.5 Days-TJ

402.67-Mattingly

Low of 114 Days and High of
693 Days for TJ

Average Time from Filing of Briefs
to Written Decision:
191.8 Days

Low of 28 Days and High of 499
Days

Attorney's Fees Decisions

Last Ten Orders

Average Time from Written Decision to

Fee Award: 108.6 Days-TJ

High of 516 Days and Low of 26 Days

Average for Mattingly: 232.67 Days

**THIS IS MEANT TO BE A
DISCUSSION AND NOT A LECTURE**

ABSENCE OF MEANINGFUL 21st CENTURY CASE MANAGEMENT

1. Hearing Dates
2. Sufficiency of DOL Opinion
3. Framework for Further Evidentiary Development-through pre-hearing orders and conferences with the parties
4. Resolution of Discovery Issues
5. Timeline or Discussion About Affirmative, Rebuttal ,
Rehabilitation and Deposition Evidence
6. Preliminary Stipulations
7. Has the 20-day rule lost its purpose and control?

UTILIZATION OF ON THE RECORD DECISION MAKING

1. Telephone Hearings
2. Skype Hearings
3. Depositions in lieu of Hearings

ISSUE NARROWING BY ALJS AT THE HEARING

1. ALJs need to know the case before and at the hearing
2. Stipulations
3. Determination of issues at hearing

POST-HEARING BRIEFING

1. Stipulate to Medical Evidence in One Document
(other than medical opinions)
2. Proposed Findings and Conclusions of Law
3. What Actually is Helpful to the ALJs

WHY DO ALJS WRITE DECISIONS THE WAY THEY DO?

“The basic purpose of the APA’s duty of explanation is to help the ALJ get it right---the exercise of writing is a great catalyst to rational thought---but it’s secondary purpose is to allow us to discharge our own duty to review the decision...If we understand what the ALJ did and why he did it, we, and the APA, are satisfied. An adequate explanation can be a succinct one; the APA neither burdens ALJs with a duty of long-windedness nor requires them to assume that we cannot grasp the obvious connotations of everyday language. Brevity can foster clarity”, *Lane Hollow Coal Co. v Director*, 137 F.3d 799, 803 (4th Cir. 1998)

ALJ ACCOUNTABILITY

1. 20 CFR §725.476—Decisions required within 20 days of briefs being filed
2. Why such variation in the ability of ALJs to get decisions out?
3. Federal Court—List of Unresolved Motions
4. Automatic Fee Approval if No Objection Filed

REMANDS

ALJ Conference on Remand
to Expedite Briefing and Decision

NEXT STEPS