

P. PRE-HEARING ORDER

OVERVIEW:

Pursuant to § [2423.24](#)(c), an ALJ may issue a pre-hearing or pre-trial order which governs all pre-hearing matters as well as any hearing matters that are addressed.

OBJECTIVE:

To provide the Trial Attorney with guidance concerning the pre-hearing order which governs all trial matters that occur pre-hearing.

1. AN ALJ ISSUES A PRE-HEARING ORDER WHICH MAY CONFIRM OR CHANGE THE FOLLOWING MATTERS:

- Date, time, and place of the hearing;
- Schedule for pre-hearing disclosure of witness lists and documents intended to be offered into evidence at the hearing;
- The date for submission of procedural and substantive motions;
- The date, time, and place of the pre-hearing conference; and
- Any other matter pertaining to pre-hearing or hearing procedures.

For example, other matters to be discussed at the pre-hearing conference, such as compliance with subpoenas.

2. TRIAL ATTORNEY PREPARES PROPOSED PRE-HEARING ORDER, AS IS NECESSARY:

The Trial Attorney prepares a motion pursuant to § [2423.21](#) only if required by the circumstances of the case. For example, an answer may

raise an issue which prompts a need for a pre-hearing order or when the disclosure, or failure to disclose, a pre-hearing document raises such an issue. This gives the Trial Attorney an opportunity to shape the course of the litigation.

✍ *The Trial Attorney attempts to agree with Respondent's representative on the method for disclosure of pre-hearing documents. Therefore, there is no need to file a motion for a pre-hearing order concerning the method for disclosure unless the Respondent's representative is uncooperative.*

See [ATTACHMENT 1P](#) for an example of a Motion for Pre-hearing Order.

Q [Part 1, Chapter N](#) concerning Pre-hearing Disclosure; and
[Part 1, Chapter Q](#) concerning Pre-hearing Conference.