

V. DOCUMENTATION OF YOUR EFFORTS TO RESOLVE THE ISSUE(S)

19. Provide the date the opposing party was notified of the disputed issues (mm-dd-yyyy):

20. Attach the following to this form:

- a description of all efforts you have made to resolve the disputed issue(s)
- supporting documentation

NOTE: If this information is not provided, a BRC may not be scheduled.

21. I certify that prior to this request I have made reasonable efforts to resolve the disputed issue(s) identified in Section IV above and that any pertinent information in my possession has been provided to the opposing party or parties. I certify that all the information provided on this form is true and correct. I certify that I will provide a copy of this request to the opposing party or parties.

Signature of Requester _____ Date _____

Request to RESCHEDULE or CANCEL a Benefit Review Conference (Complete Section VI)

VI. DOCUMENTATION OF GOOD CAUSE FOR RESCHEDULING OR CANCELING A BENEFIT REVIEW CONFERENCE

22. Check ONE box below to indicate the description applicable to your request:

Cancel PRIOR to BRC (Complete 23 and 26)

Reschedule PRIOR to BRC (Complete 23, 25, and 26)

Reschedule AFTER failing to attend BRC (Complete 24, 25, and 26)

23. If you are requesting to reschedule or cancel a BRC and the date you are submitting this form is more than 10 days after the date* you received the notice of setting but before the BRC is scheduled to be held, attach the indicated information and any supporting documentation to this form:

a) a description of objective facts beyond your control, which reasonably:

- prevent you from attending the BRC; or
- prevent the BRC from accomplishing its purpose (This may include a description of your need for a reasonable amount of additional time to secure necessary evidence for the dispute); OR

b) a description of objective facts which make the BRC unnecessary.

* The date the notice of setting is received is deemed to be the 5th day after the date of the notice.

NOTE: If this information is not provided, the BRC may not be rescheduled or canceled. Canceling a BRC without simultaneously rescheduling is considered a withdrawal of the dispute on the issue and must comply with TDI-DWC rule 130.12, if applicable.

If you did not submit the initial request for the BRC that you are requesting to reschedule or cancel, have you obtained the agreement of the opposing party to the rescheduling or cancelation of the BRC? Yes No

24. If you are requesting to reschedule after failing to attend a BRC, you must attach a description of objective facts beyond your control, which reasonably prevented you from attending the BRC and from notifying TDI-DWC to cancel or reschedule in advance of the BRC;

If you do not submit the request by close of business on the third business day after the BRC was held, you must also attach a description of objective facts beyond your control, which reasonably prevented you from doing so and which justify the subsequent delay in filing the request.

Attach any supporting documentation.

NOTE: If this information is not provided, the BRC may not be rescheduled.

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| <p>25. Check the appropriate box below:</p> <p><input type="checkbox"/> The information provided in the initial request for this BRC has <u>not</u> changed.</p> <p><input type="checkbox"/> Information provided in the initial request for this BRC has changed. (If this box is checked, you must complete Sections IV and V of this form.)</p> | <p>For TDI-DWC Use Only</p> |
| <p>26. I certify that I will provide a copy of this request to the opposing party or parties.</p> <p>Signature of Requester _____ Date _____</p> | |

NOTE: With few exceptions, upon your request, you are entitled to be informed about the information TDI-DWC collects about you; receive and review the information (Government Code, §§552.021 and 552.023); and have TDI-DWC correct information that is incorrect (Government Code, §559.004).

Frequently Asked Questions

Request to Schedule, Reschedule, or Cancel a Benefit Review Conference (BRC)

NOTE: This form may only be used to request the scheduling, rescheduling, or cancelation of a Benefit Review Conference (BRC). Do not submit this form to schedule a BRC unless you are prepared to proceed. This form should not be used to request other actions by the TDI-DWC, such as a letter of clarification or a contested case hearing on matters that do not require a BRC.

Where will the BRC be held? The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) will schedule the BRC at a location not more than 75 miles from the injured employee's residence at the time of the injury or address on this form, unless good cause exists for the selection of a different location. You may request another location, but must provide an acceptable reason to relocate the proceeding. The TDI-DWC will determine whether a change in location is appropriate. In addition, injured employees may request the BRC be held through a telephone conference.

What type of special accommodations will TDI-DWC provide? The TDI-DWC will provide accommodations to parties who qualify under the Americans with Disabilities Act (ADA), and other reasonable accommodations at the discretion of the benefit review officer.

Who determines whether a BRC is expedited? If an expedited BRC is requested, the TDI-DWC will determine whether scheduling the BRC more quickly is appropriate. For example, an expedited BRC may be granted in the following circumstances:

- no income benefits have been paid because of the issue in dispute; or
- the issue in dispute is an official action taken by the TDI-DWC.

How do I document my efforts to resolve the disputed issues before requesting a BRC? Attach copies of correspondence, e-mails, facsimiles, records of telephone contacts, summaries of meetings, or telephone conversations.

What is pertinent information documentation? It is documentation that is related to the disputed issue and will be used at the BRC to help resolve the dispute. Examples of pertinent information are: medical records, requests for a designated doctor exam; letters of clarification to a designated doctor; required medical examination reports; or a treating doctor's response to a designated doctor report. You are required to provide pertinent information to the opposing party before requesting a BRC. You are also required to provide pertinent information to the TDI-DWC not later than 14 days before the scheduled BRC, but you should **not** attach this information to this request.

Who determines whether to reschedule or cancel a BRC? The determination of whether there is good cause to reschedule or cancel a BRC is made at the discretion of the TDI-DWC benefit review officer on a case-by-case basis. Even if good cause exists, the benefit review officer may deny the request based on other considerations.

Where do I send the form? You can fax, mail or personally deliver the completed form to the field office handling the claim. For field office addresses and fax numbers, call the TDI-DWC at 1-800-252-7031 or visit the agency's website at <http://www.tdi.texas.gov/wc/dwccontacts.html#offices>. Failure to file the form with the appropriate field office may delay the processing of your request. You are also required to send a copy of the form to the opposing party or parties.

Is any of the requested information optional? No, provide all information requested in the Sections of the form that apply to your request. Sections I, II, and III apply to all requests. Sections IV and V apply to a request to schedule a BRC. Section VI applies to a request to reschedule or cancel a BRC. A BRC will only be scheduled, rescheduled, or canceled if the form is complete. An incomplete form may delay resolution of your dispute.

Am I required to attend the BRC? If you do not attend, the BRC may be held without you. Failure to attend a BRC could result in a recommendation of a penalty or fine unless you can show good cause for your absence. An injured employee should attend any proceeding related to a dispute about his or her claim, even if the injured employee did not request the proceeding.

Does the filing of this form to schedule a BRC meet the requirements for disputing the certification of MMI/IR? The filing of this form constitutes a dispute for purposes of Texas Labor Code §408.123(e) only if the TDI-DWC determines that the form is complete in accordance with TDI-DWC rules and the BRC is scheduled. In such cases, the dispute will be considered effective the date the party filed the request. Canceling a BRC without simultaneously rescheduling is considered a withdrawal of the dispute on the issue and must comply with TDI-DWC rule 130.12.

Who do I contact if I have questions about requesting, rescheduling, or canceling a BRC? Contact the TDI-DWC by calling 1-800-252-7031. An injured employee who is not represented by an attorney may also receive assistance by contacting the Office of Injured Employee Counsel (OIEC) at 1-866-393-6432.

What happens after the TDI-DWC receives my DWC Form-045? If your request to schedule, reschedule, or cancel a BRC is approved, you and the opposing party or parties will be notified, including the time, date and location of the BRC, if applicable. If you are notified your request to schedule a BRC is denied because the request is incomplete, you may resubmit the request with additional information or request an expedited contested case hearing to determine if your request should be approved.