**Section 1650.640 Prehearing Procedure**

a) Upon written notice by the Presiding Hearing Officer, the petitioner, or his or her attorney, and counsel for the System shall make themselves available at mutually agreeable times for pre-hearing conferences for the following purposes:

1) The simplification of issues;

2) The amendment of pleadings;

3) The making of admissions of facts or stipulations for the purpose of avoiding the unnecessary introduction of evidence;

4) Establishing the procedure at the hearing;

5) The limitation of the number of witnesses;

6) The disclosure of all witnesses (expert and non-expert) to be called to testify at hearing;

7) Disclosure of the substance of the testimony of all witnesses to be called;

8) The exchange of all exhibits to be introduced at hearing;

9) Establishing briefing schedules for the submission of position statements and accompanying documentation; and

10) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

b) To the extent that the parties are unable to agree or stipulate to matters at the pre-hearing conference, the Presiding Hearing Officer shall make the rulings and determinations necessary to assure that the issues, discovery, witnesses, evidence, and procedures prior to and at hearing remain focused on relevant and material matters. Failure to attend a pre-hearing conference or failure to adhere to rulings, schedules or agreements made at the pre-hearing conference may, in the discretion of the Presiding Hearing Officer, result in delay of the hearing or limitations on the presentation of certain positions or the use of certain evidence at the hearing.

c) Upon agreement of the parties or with the express consent of the Presiding Hearing Officer, the parties may undertake discovery, which may include interrogatories, requests for production of documents, discovery depositions, and evidence depositions. If the parties are unable to agree to all or any form of discovery, any party may submit a written request to the Presiding Hearing Officer with a copy to all other parties setting forth with sufficient particularity the information sought and the form of discovery requested. The Presiding Hearing Officer shall grant such request upon determining the information is necessary to the requesting party's case and the Committee's full understanding of the issues presented. Any additional witnesses or exhibits identified during further discovery must be exchanged in writing by certified mail at least 14 days prior to hearing.

d) Any witnesses not disclosed or exhibits not exchanged at the prehearing conference or 14 days prior to hearing, if additional discovery is allowed, shall be barred at hearing unless good cause is shown for such failure to provide. At the discretion of the Presiding Hearing Officer, a hearing may be postponed in the interest of fairness to allow a party time to investigate and prepare to respond to newly submitted evidence.

e) The parties may agree to submit the matter for the Committee's decision solely on the written record.

f) Either party may file motions necessary to resolve matters and to focus the remaining issues for hearing. The motions may include motions to dismiss and motions for summary judgment, where appropriate. Procedural matters may be resolved by the Presiding Hearing Officer. Substantive matters will be submitted to the Claims Hearing Committee for ruling.

g) If, in the judgment of the Presiding Hearing Officer, the petitioner has not diligently pursued his or her claim, the Presiding Hearing Officer may find the petitioner to be in default and dismiss the petitioner's claim. Prior to dismissing a claim, however, the Presiding Hearing Officer shall provide the petitioner with an opportunity to show cause why the claim should not be dismissed. A dismissed claim may be re-filed within 6 months after the date of its dismissal, but shall be barred thereafter. A claim may not be re-filed after a second dismissal.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)