

**CLAIMS REVIEW
AND
APPEAL GUIDE
FOR WORKERS
AND DEPENDANTS**

**FOR WCB CLAIM DECISIONS
DATED ON OR AFTER
MARCH 3, 2003**

WorkSafeTM



**WORKERS'
COMPENSATION
BOARD**
OF BRITISH
COLUMBIA

www.worksafebc.com

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INTRODUCTION

When you apply for workers' compensation benefits, a Workers' Compensation Board (WCB) officer decides whether to allow the claim. A WCB officer also decides what benefits you will receive. All decisions are based on the evidence, the *Workers Compensation Act*, and WCB policy.

If you disagree with the WCB decision and have not been provided with a decision letter, you should request a decision letter explaining the reasons for the decision. If you still disagree, you can have the decision reviewed. If you disagree with the review decision, you can appeal it in most instances.

This brochure provides the basics on how to request a review or file an appeal. For more information or for forms, visit the WCB web site at www.worksafebc.com or visit your nearest WCB office. If you require further assistance, see "Where to get advice" on page 5.

CLARIFYING THE DECISION

If you don't understand the reasons for the original claim decision, contact a WCB officer and ask for an explanation. To contact the appropriate WCB officer, write, phone, or

visit the WCB office that you dealt with. If you plan to come to a WCB office, make an appointment so the appropriate person can set aside time to meet with you. This person will explain the decision more fully, answer your questions, and, if necessary, provide you with a decision letter.

It is recommended that you keep records of all letters and phone calls to the WCB. Always use your claim number when you communicate with the WCB.

The decision letter you receive may contain factual errors, or it may not consider new information affecting the original claim. If your discussion with the WCB officer does not resolve the issue, you may request a review of the decision.

NEW APPEAL STRUCTURE

If you disagree with a WCB decision regarding your claim, you have the right to request a review by the Review Division. As of March 3, 2003, the review/appeal structure consists of the Review Division of the WCB and the Workers' Compensation Appeal Tribunal (WCAT).

The Review Division provides the first level of review for most issues. The Review Division is independent from other divisions of the WCB that make decisions under the *Workers Compensation Act*. It is located at the WCB head office in Richmond.

The WCAT is the external and final level of appeal for most issues. It is independent of the WCB, reports to the B.C. Ministry of Skills Development and Labour, and is located in Richmond at a separate site from the WCB.

See page 7 for contact information for the Review Division and the WCAT.

Review Division

The Review Division provides impartial reviews of decisions made under the *Workers Compensation Act*, including claim decisions. On claim decisions, only those directly affected – that is, a worker (including an independent operator), a deceased worker’s dependant, or an employer – can request a review.

If you wish to have the decision on your claim reviewed by the Review Division, you must make a request within **90 days** of the date of the decision. To obtain a Request for Review form, visit the WCB web site at www.worksafebc.com. The form is also available at any WCB office. Fill out the form and send it to the Review Division before the 90-day period expires.

In exceptional circumstances, you may request a review of a decision after the 90-day period has expired. To do this, complete a Request for Review form and send it together with a written explanation of why your request could not be submitted within the 90-day period. The chief review officer will decide whether to grant an extension of time.

The Review Division will make a decision within 150 days, subject to an extension or suspension of this timeframe on limited grounds. If your review concerns vocational rehabilitation benefits, the commutation of your pension, or certain pension awards, the Review Division decision is final. For all other matters, a review officer’s decision can be appealed to the WCAT.

If you are uncertain if you can appeal your Review Division decision to the WCAT, you should refer to “Where to get advice” on page 5. For detailed procedural information

about reviews, read the *Review Division Practices and Procedures Manual* available on the WCB web site at www.worksafebc.com.

Workers' Compensation Appeal Tribunal

The Workers' Compensation Appeal Tribunal (WCAT) serves as the final level of appeal for most WCB claim matters it is authorized to hear and decide. Only the parties affected by a Review Division claim decision – that is, a worker (including an independent operator), a deceased worker's dependant, or an employer – can appeal to the WCAT.

If you have a decision from the Review Division and you wish to appeal to the WCAT, you have **30 days** from the date of the Review Division decision. To obtain a Request for Appeal form, visit the WCAT web site at www.wcat.bc.ca. Forms are also available at any WCB office. The WCAT will generally provide its decision within 180 days, subject to an extension or suspension of this timeframe on limited grounds.

The WCAT is the only level of appeal for reopening applications. Your claim can be reopened only if there is a significant change in the medical condition that resulted from your original injury or if there is a recurrence of your injury. Decisions on reopening applications are not subject to review by the Review Division, but are appealable to the WCAT within **90 days**.

You cannot file for both a review and an appeal at the same time on the same issue. For most issues, you cannot appeal to the WCAT unless you have received a Review Division decision. The WCAT decision is final and conclusive.

Summary of review and appeal process

WCB decision letter
regarding your claim



Review by Review Division

- Must apply within 90 days of the date of the decision
- Extensions only in exceptional circumstances
- Review Division decision normally provided within 150 days



Appeal to Workers' Compensation Appeal Tribunal

- Must apply within 30 days of the date of the Review Division decision
- Extensions only in exceptional circumstances
- If time is running out, you can give the intent to appeal by phone
- Appeal decision normally provided within 180 days

WHERE TO GET ADVICE

If you are not sure how to have your claim either reviewed or appealed, and you belong to a union, you should contact your union representative. If you have questions about whether to have your claim reviewed or appealed and you don't belong to a union, you can get free advice from the Workers' Advisers Office. The Workers' Advisers Office is independent of the WCB, and has locations across the province. To find the location nearest you, see page 7.

ACCESS TO YOUR CLAIM FILE

You can request a copy of your claim file to help you decide if you want to request a review or an appeal of a decision. You should do this as soon as possible so that you do not miss the review or appeal deadline. If you want a copy of your WCB claim file, send your written request (specifying your name, claim number, address, and telephone number) to:

Disclosures Department
Workers' Compensation Board
PO Box 5350 Stn Terminal
Vancouver BC V6B 5L5
Phone 604 279-7607
Fax 604 276-3102

A Request for Disclosure form is available from WCB offices and on the WCB web site at www.worksafebc.com.

If you request a review or an appeal, you will automatically be provided with a copy of your claim file. In addition, if your employer decides to participate in a review or an appeal that you have initiated, or separately requests a decision review, information in your claim file will be given to your employer for review or appeal purposes. Except in certain specified circumstances, it is an offence for your employer to disclose information from your claim file to anyone not involved directly in the review or appeal.

The WCB will send your disclosure information to you either on paper or a compact disk, according to the preference you indicate on the request form.

CONTACT INFORMATION

Visit the WCB web site at www.worksafebc.com for all WCB locations and phone numbers.

Review Division

Workers' Compensation Board
PO Box 2071 Stn Terminal
Vancouver BC V6B 3S3
Phone 604 214-5411
Toll-free 1 888 922-8804
Fax 604 232-7747
www.worksafebc.com

Workers' Compensation Appeal Tribunal

150 – 4600 Jacombs Road
Richmond BC V6V 3B1
Phone 604 664-7800
Toll-free 1 800 663-2782
Fax 604 664-7898
www.wcat.bc.ca

Workers' Advisers

Visit the Workers' Advisers web site at www.labour.gov.bc.ca/wab to get a better understanding of your requirements regarding reviews and appeals.

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| Richmond | 604 713-0360 / 1 800 663-4261 |
| Abbotsford | 604 870-5488 / 1 888 295-7781 |
| Kelowna | 250 717-2096 / 1 866 881-1188 |
| Kamloops | 250 371-3860 / 1 800 663-6695 |
| Nelson | 250 354-6933 / 1 866 354-6933 |
| Prince George | 250 565-4280 / 1 800 263-6066 |
| Victoria | 250 952-4393 / 1 800 661-4066 |
| Nanaimo | 250 741-5504 / 1 800 668-2117 |
| Campbell River | 250 830-6526 / 1 888 643-0013 |

