

CLAIMS REVIEW AND APPEAL GUIDE FOR EMPLOYERS

**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 a worker files a compensation claim, a Workers' Compensation Board (WCB) staff member decides whether to allow the claim. There are numerous other decisions made on the claim, such as the rate at which benefits will be paid and the duration of benefits. All decisions are based on the evidence, the application of the *Workers Compensation Act*, and WCB policy. As the employer, you are notified of most – but not all – decisions affecting the claim.

If your worker is on compensation and you have not received a decision letter, you can request a letter from the WCB to explain the claim. The cost of the claim can affect your premiums and those of others in your industry. Preventing accidents in the first instance, helping injured employees to return to work quickly, and participating in the appeals process, when necessary, are good strategies for controlling injury costs.

If you disagree with the WCB decision, you can have it reviewed by the Review Division. If you disagree with the review decision, you can appeal it to the Workers' Compensation Appeal Tribunal (WCAT).

This brochure provides the basics on how to file either a review or an appeal. Relief-of-cost decisions are also subject to review and are dealt with on page 7. For information on assessment or prevention decisions, contact your nearest WCB office.

This brochure is intended to generally address all employer concerns. However, there may be individual cases where there are more limited choices. For advice on your individual claims, prevention, or assessment matters, you may wish to contact the Employers' Advisers Office (see page 8).

CLARIFYING THE DECISION

If you don't understand the reasons for the claim decision, contact the WCB officer responsible for the decision. This person can explain the decision more fully and answer your questions. If you still disagree with the decision, and have not been provided with a decision letter, then ask the WCB officer for a written decision.

It is recommended that you keep records of all letters and phone calls to the WCB. Always use the worker's 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 a worker's claim, you have the right to request a review. As of March 3, 2003, the new 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*, and 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 8 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 claims. For claim-related matters, only those directly affected by a decision – 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 a worker’s claim reviewed by the Review Division, you must make a request within **90 days** of the date of the decision. For 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 the review concerns vocational rehabilitation benefits, the commutation of a pension, or certain pension awards, the Review Division decision is final and cannot be appealed. In other cases, a review officer's decision can be appealed to the WCAT.

For detailed procedural information about reviews, read the *Review Division Practices and Procedures Manual* available on the WCB web site at www.worksafebc.com. If you have questions about whether your particular review decision is appealable, you may wish to seek the advice of the Employers' Advisers (see page 8).

Workers' Compensation Appeal Tribunal

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

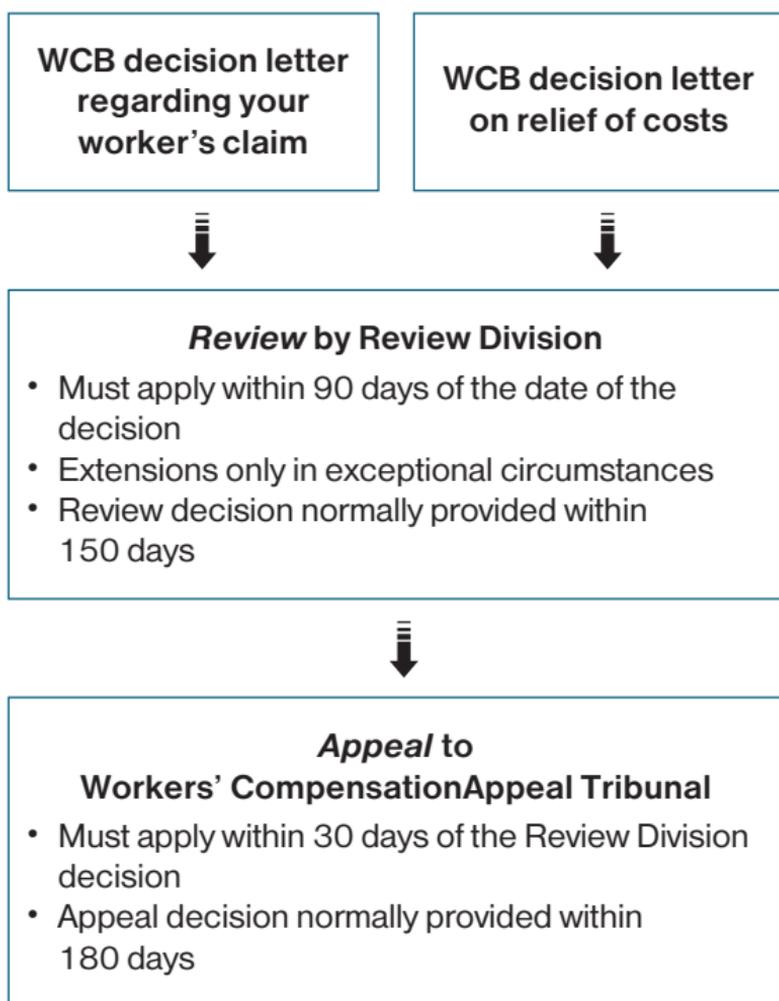
If you have a decision from the Review Division and you wish to appeal to the WCAT, you have **30 days** from the date of the review decision to appeal. To obtain a Request for Appeal form, visit the WCAT web site at www.wcat.bc.ca. Forms are also available at any WCB office. The WCAT will generally 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. A worker's claim can be reopened only if there is a significant

change in the medical condition that resulted from the original injury or if there is a recurrence of the injury. Decisions on reopening applications are not subject to a 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 matter. 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



WHERE TO GET ADVICE

If you need assistance with having a WCB decision either reviewed or appealed, or are unsure if your issue is appealable, you can get advice from the Employers' Advisers Office. The Employers' Advisers Office is independent of the WCB, and has the right to access claim information on your behalf. This service is available to you at no cost. To find the location nearest you, see page 8.

ACCESS TO A WORKER'S CLAIM FILE

The WCB grants employers access to a worker's claim file if the worker, his or her dependant, or the employer has filed a review or appeal. If you have filed a request, you will be provided with a copy of the claim file. If you advise the Review Division or the WCAT that you wish to participate in a worker's review or appeal, you will be provided with a copy of the claim file.

Employers have access to all information related to a review or an appeal. Except in certain specified circumstances, it is an offence for an employer to further disclose information from a worker's claim file.

PAYMENT OF BENEFITS

Once a WCB staff member decides to allow a claim or reopen an old claim, the worker receives payments – even if you request a review or an appeal. If your review or appeal reverses the decision, the WCB stops payments. The WCB does not recover the money already paid, unless there was fraud or misrepresentation. The WCB relieves your firm class or subclass of these costs by distributing them across all classes and subclasses in an industry.

RELIEF-OF-COST DECISIONS

The three most common situations where the WCB may relieve or transfer claim costs concern:

- The loss from a disaster or other circumstance that unfairly burdens the employers in a class (a class is a group of employers to which you are assigned for the purpose of paying assessments to the WCB)
- A pre-existing disease, condition, or disability that prolongs a worker's recovery or makes a worker's disability worse
- An injury that results from a serious breach of duty of care by an employer in another class or subclass

If a relief or transfer of a claim cost is allowed, this may impact your WCB premium, depending on such factors as the number of recent injuries in your workplace. If it is not allowed, or allowed in part, you have the right to request a review by the Review Division. You have **90 days** from the date of the decision to file a request for review. If your review is not successful and you still disagree with the decision, you have the right to file an appeal with the WCAT. An appeal of a review decision must be filed within **30 days** of the date of the review decision.

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

Employers' Advisers

Richmond (Lower Mainland region)
604 713-0303 / 1 800 925-2233

Kelowna (Okanagan–Kootenay region)
250 717-2050 / 1 866 855-7575

Prince George
(Prince George–North region)
250 565-4285 / 1 888 608-8882

Victoria (Vancouver Island region)
250 952-4821 / 1 800 663-8783

www.labour.gov.bc.ca/eao

