

THE REVIEW AND APPEAL PROCESS

OVERVIEW:

Under ss.13.2, 21(3), 45, 46, 119, and 120 of the *Workers' Compensation Act (WCA)*, and s.11 of the *Workers' Compensation Regulation (WC Regulation)*, a worker, employer, or interested party who is dissatisfied with an adjudicative or employer account decision has the right to seek a review of the decision or to appeal the decision. WCB is committed to a review and appeal process that ensures decisions are in compliance with the *WCA* and policies, and the merits of each case are considered.

1. *What is the review and appeal process?*

The *WCA* provides for an internal review and an external appeal for both adjudicative and employer account decisions.

The internal review is conducted by WCB and is a required step before a formal appeal may be made.

A formal appeal is made to the Appeals Commission, which is a separate body with exclusive jurisdiction to hear appeals on decisions made by the WCB Dispute Resolution and Decision Review Body (DRDRB).

A request for a review or an appeal must be made in writing.

For detailed information on what must be included in your written request for a review or an appeal, please refer to WCB's Fact Sheet "Questioning a WCB-Alberta decision".

2. *Who may request a review or an appeal of a WCB adjudicative or employer account decision?*

A person with a direct interest in an adjudicative decision on a claim or an employer account decision may request an internal review of the decision by DRDRB or may appeal DRDRB's decision to the Appeals Commission.

For a claim decision, the person with a direct interest is generally considered to be the injured worker, the worker's dependant(s) in the event of death or incapacity of the worker, and the accident employer.

For an employer account decision, the person with a direct interest is generally considered to be the employer.

If a person with a direct interest has an authorized representative (see Question 5), the representative may request the review or appeal on the person's behalf.

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3. *What is an internal review?* An internal review is a WCB process whereby a person who has a direct interest in an adjudicative or an employer account decision and who is dissatisfied with a decision may ask for a review of that decision.

Under the WCA, WCB must establish a review body for the purposes of conducting a review of either an adjudicative or an employer account decision.

DRDRB uses a process that is flexible, informal, collaborative, and focused on looking for opportunities to resolve issues. As a first step, a resolution specialist will contact the person requesting a review to ensure there is clear understanding of the specific issues or concerns. The resolution specialist works with the requestor to determine the best approach to resolving the issue. There are a number of approaches available including: a documentary review, a telephone conference with the interested parties, or an in-person meeting with the interested parties.

When considering or preparing for an internal review, you or your authorized representative have the right to review all the information in the claim or employer account file relevant to the issue under review (see Policy 01-02, *Access and Privacy*). It is important to have a clear understanding of the reason for the decision before requesting an internal review.

For more detailed information on the internal review process, please refer to WCB's Fact Sheet "Questioning a WCB-Alberta decision". See WCB's website at: www.wcb.ab.ca.

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4. ***What is an external appeal?*** The WCA establishes the Appeals Commission as a separate appeal body with exclusive jurisdiction to hear appeals on decisions concerning claims issues or employer accounts made by the DRDRB, as well as determinations of the Board under s.21(3).

A formal appeal is a process, external to WCB, whereby a person with a direct interest in an adjudicative or an employer account decision who is dissatisfied with a decision made by DRDRB may appeal a decision to the Appeals Commission.

For details about the formal appeal process please contact the Appeals Commission or see their website: www.appealscommission.ab.ca.

5. ***Do I need someone to represent me, or can I represent myself?***

The review process and the appeal process are conducted in an informal manner, so you may handle your review or appeal yourself. If you prefer, you can authorize someone to represent you. Your representative can be a lawyer, consultant, family member, or anyone else you authorize to act for you. Signed authorization is required, confirming the representative has your authority to act on your behalf.

You are responsible for any fees charged by your representative.

If you are an injured worker, you have the option of asking for a WCB Appeals Advisor to help you with your review or appeal. Policy 01-07 sets out the mandate of the Office of the Appeals Advisor. There is no charge for this service. For more information, please refer to the brochure on the Office of the Appeals Advisor on WCB's website at www.wcb.ab.ca.

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6. *Is there a time limit for filing a request for review with WCB's DRDRB?* Yes, if you disagree with a WCB decision you have one year from the day of the decision to request, in writing, an internal review by DRDRB.

The time limit is important for administrative fairness and to add a measure of certainty and finality to decision-making.

If you are late filing you may apply in writing to the Chair of DRDRB or delegate to extend the time period. An extension of the time period may be granted when the DRDRB considers there is a justifiable reason for the delay. Examples of a justifiable reason for delay might include, but are not limited to:

- There was a lack of proper notice that left you unaware of the decision and you took reasonable and timely steps to file the request for review once you became aware of the decision
- You relied on someone else that you trusted to file the request for review on your behalf, it was reasonable for you to rely on that person and, once you became aware that the person had failed to file the request for review, you took reasonable and timely action to file
- You were unable to request a review due to diagnosed mental or physical incapacity or you were prevented from doing so because of some other valid reason

If possible, you should submit documentation to support or prove your reason for delay. In considering whether to grant the extension or not, the DRDRB Chair or delegate will consider your reason for delay and the overall fairness of granting an extension. For example, over time, evidence may be lost, medical information may no longer be available, the medical condition may change, and this may impact DRDRB's decision to grant the extension or not.

In cases where an extension is granted, the DRDRB Chair or delegate may impose conditions, such as the setting of deadlines for certain things to be done.

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7. *Is there a time limit for filing an appeal with the Appeals Commission?* Yes, if you are not satisfied with a DRDRB decision you have one year from the day of the review decision to file, in writing, an appeal with the Appeals Commission.

For information on extensions for appeals, please contact the Appeals Commission directly or see their website: www.appealscommission.ab.ca.

8. *Where can I get more information?* There is information on WCB's dispute resolution and decision review process and on the Office of the Appeals Advisor available from WCB and on WCB's website at www.wcb.ab.ca.

There is information available from the Appeals Commission on their website: www.appealscommission.ca.

For more information, please contact WCB or the Appeals Commission directly. You may also review the legislative requirements set out in ss.13.2, 21(3), 45, 46, 119, and 120 of the *WCA* and s.11 of the *WC Regulation*.