

Alberta WCB Policies & Information

Chapter:

GENERAL POLICIES

Subject:

RECONSIDERATIONS, REVIEWS, AND APPEALS

Authorization:

BoD Resolution 2024/03/08

Date:

April 30, 2024

REFERENCE:

[*Workers' Compensation Act, RSA 2000*](#), Sections 9.3, 9.4, 13.1, 13.2, 17, 21(3), 142, 143, and 147

[*Workers' Compensation Regulation*](#), Section 11

POLICY:

Sections 17(3) and 13.1(7) of the *Workers' Compensation Act (WCA)* give WCB and the Appeals Commission (AC) the authority to *reconsider* any matter that they have previously dealt with.

Under sections 9.3 and 9.4 of the *WCA*, a person who is dissatisfied with a claim or employer account decision and who has a *direct interest* in that decision has the right to seek a *review of the decision* through WCB's internal Dispute Resolution and Decision Review Body (DRDRB).

Under sections 13.1 and 13.2 of the *WCA*, a person who is dissatisfied with a claim or employer account decision and who has a *direct interest* in that decision has the right to *appeal the decision* through the external AC.

WCB, DRDRB, and the AC may consider any *new evidence* and, if appropriate, amend or rescind *their* previous decision.

The effective date of an amended decision depends on the *nature of the decision*.

This policy is effective July 1, 2024, and applies to all decisions and administrative reviews on or after that date, except when noted otherwise in a specific policy section(s).

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INTERPRETATION

1.0 Reconsider a previous decision

A reconsideration is when WCB, DRDRB, or the AC reviews **their own** previous decision on a claim or employer account matter and confirms, varies, or reverses that decision.

See Application 1 for general information on reconsiderations, and Application 2 for reconsiderations when information is submitted as new evidence.

2.0 Direct interest

Direct interest means:

- in the case of a claim-related decision, a person who has a direct interest in that claim for compensation (generally the injured worker, the worker's dependant(s), or the accident employer)
- in the case of a premium assessment or employer account decision, a person who has a direct interest in that premium assessment or account decision (generally the employer)

Under sections 9.4 and 13.2 of the *WCA*, *assessment* refers to employer account decisions, not an assessment of a worker on a claim-related matter.

3.0 Review a decision

WCB has an internal review body that conducts reviews of claim and employer account decisions made by WCB. This body is called the Dispute Resolution and Decision Review Body. For more information, see Application 3.

4.0 Appeal a decision

The *WCA* establishes the Appeals Commission as a separate external appeal body with exclusive jurisdiction to hear appeals on decisions concerning claims issues or employer accounts made by the DRDRB, as well as determinations by WCB made under s.21(3). For more information, see Application 3.

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5.0 New Evidence

For the purposes of this policy, new evidence is new information that may affect a previous workers' compensation decision. To be considered new evidence, the new information must meet all of the following criteria:

- the evidence is **material**; and
- the evidence is **new**; and
- the evidence was **not reasonably available at the time the decision was made**; and
- the evidence is **substantive**; and
- the evidence is **probative**; and
- the evidence is **factual and objective**

See Application 2 for details on what does and does not meet the definition of new evidence and for details on how decisions relating to new evidence are made.

6.0 Nature of the Decision

The decision may be either a decision on a claim or an employer's account. When a decision:

- results in a change in benefits, the effective date is retroactive to the date the worker or dependant was entitled (benefit increases) or was not entitled (benefit decreases) to the benefits
- results in a premium change, the effective date is determined by the specific policy dealing with the type of change. See Policy 06-03, *Premiums*, for changes in reported assessable earnings, and Policy 07-01, *Classification*, for classification changes

For more information on implementing a changed decision, see Application 4.

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Please see Part II for additional information on the following subjects:

Application

- 1 – [Reconsiderations \(General\)](#)
- 2 – [Reconsiderations \(New evidence\)](#)
- 3 – [Reviews and appeals](#)
- 4 – [Implementing a changed decision](#)

[Document History](#)

Previous versions

- [Policy 0108 Part I - April 2021](#)
- [Policy 0108 Part I - April 2018](#)
- [Policy 0108 Part I - August 2015](#)
- [Policy 0108 Part I - June 2010](#)
- [Policy 0108 Part I - January 2004](#)
- [Policy 0108 Part I \(1st Issue\) - October 2002](#)

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APPLICATION 1: RECONSIDERATIONS (GENERAL)

1. *What is a reconsideration?*

A reconsideration is when a decision-making body [WCB, the Dispute Resolution and Decision Review Body (DRDRB), and/or the Appeals Commission (AC)]:

- reviews *its own* previous decision (on a claim-related or employer account-related matter), and
- confirms, varies, or reverses that decision.

This is different from a review or appeal, which is when a decision-making body reviews a decision made by another decision-making body. See Application 3.

2. *What decisions can a decision body reconsider?*

WCB may reconsider its own previous decisions on its own initiative (see Questions 4 - 6) or may reconsider a previous decision when information is submitted as new evidence (see Application 2).

When information is submitted as new evidence, DRDRB may reconsider a previous decision made by DRDRB and the AC may reconsider a previous decision made by the AC. See Application 2.

3. *Who can request a reconsideration?*

A previous decision may be reconsidered at the request of a party with **direct interest** in the decision. For the definition of direct interest, see Part I, 2.0.

There are some circumstances where WCB may reconsider a previous decision on its own initiative (see Question 4).

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APPLICATION 1: RECONSIDERATIONS (GENERAL)

4. *When does WCB reconsider a previous decision on its own initiative?*

Although WCB does not automatically review all claims to confirm previous decisions, there are several WCB processes that require administrative review of a claim (e.g., when a file is transferred to a new Case Manager, annual reviews of some supplements, etc.). WCB may reconsider previous decisions identified during an administrative review (see Questions 5 - 6).

5. *Which WCB staff can reconsider and change decisions?*

WCB can only reconsider and change a decision if it has not been reviewed by DRDRB or the AC already.

The following WCB staff can reconsider and change claim-related decisions:

- case assistants, adjudicators, and case managers, as long as the decision being reconsidered is within the scope of their position, and
- supervisors with the ability to authorize decisions on a worker's entitlement to benefits

The following WCB staff can reconsider and change premium assessment and employer account related decisions:

- audit and underwriting staff, and
- supervisors with the ability to authorize decisions on an employer's account or premium assessment

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| 6. | <i>What does WCB consider when determining whether to change a previous decision?</i> | <p>The WCB staff member authorized to change a decision (see Question 5) will not change the previous decision if reasoned judgment was used and the decision:</p> <ul style="list-style-type: none"> • is consistent with the available evidence and a reasonable interpretation of legislation and policy in effect at the time the previous decision was made, and • if it is a claim-related decision, gives the benefit of the doubt to the worker when the evidence in support of the opposite sides on an issue is approximately equal (see Policy 01-03, <i>Benefit of Doubt</i>). |
| 7. | <i>What happens if a decision is changed as the result of a reconsideration?</i> | <p>If a decision is changed following a reconsideration, WCB implements the changed decision as appropriate. For information on implementing a changed decision, see Application 4.</p> |
| 8. | <i>When is this policy application effective?</i> | <p>This policy application [Application 1 – Reconsiderations (General)] is effective July 1, 2024, and applies to all reconsideration decisions on or after that date, except when noted otherwise in a specific policy section(s).</p> |

Previous versions

Effective July 1, 2024, Policy 01-08 was renamed and restructured. See [Document History](#).

Previous versions for October 2002 – July 2024:

Policy 01-08, Part II, Application 1: Interaction with the review and appeal processes

- [Policy 0108 Part II – Application 1 - April 2021](#)
- [Policy 0108 Part II – Application 1 - September 2018](#)
- [Policy 0108 Part II – Application 1 - April 2018](#)
- [Policy 0108 Part II – Application 1 - August 2015](#)

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APPLICATION 1: RECONSIDERATIONS (GENERAL)

- [Policy 0108 Part II – Application 1 - January 2006](#)
- [Policy 0108 Part II – Application 1 - January 2004](#)
- [Policy 0108 Part II – Application 1 - January 2003](#)
- [Policy 0108 Part II \(1st Issue\) – Application 1 - October 2002](#)

Policy 01-08, Part II, Application 2: Claims

- [Policy 0108 Part II - Application 2 - April 2018](#)
- [Policy 0108 Part II - Application 2 - August 2015](#)
- [Policy 0108 Part II - Application 2 - June 2010](#)
- [Policy 0108 Part II - Application 2 - January 2004](#)
- [Policy 0108 Part II \(1st Issue\) - Application 2 - October 2002](#)

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APPLICATION 2: RECONSIDERATIONS (NEW EVIDENCE)

1. *What is the process when information is submitted as new evidence to support a request for reconsideration?*

When an interested party submits information as new evidence to support a request to reconsider a previous decision, the process is as follows:

- a) Determine whether the information was obtained without unreasonable delay and submitted within the time limit (see Questions 3-9). If not, the process ends, and the reconsideration is not allowed.
- b) Determine whether the information submitted is new evidence (see Questions 10-12). If not, the process ends, and the reconsideration is not allowed.
- c) If the information is determined to be new evidence, reconsider the original decision that the new evidence relates to (see Questions 13-15 and Application 1).

2. *Does there need to be new evidence to reconsider a previous decision?*

WCB may reconsider a previous decision it has made, with or without new evidence (see Application 1) provided the decision has not already been the subject of a review by the DRDRB and/or an appeal at the AC.

WCB's internal Dispute Resolution and Decision Review Body (DRDRB) only reconsiders its previous decisions when there is new evidence, provided the decision has not already been the subject of an appeal at the AC.

The external Appeals Commission (AC) outlines rules and guidelines for reconsidering appeal decisions in its appeal rules and practice guidelines.

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3. *Are there parameters for obtaining and submitting new information?*

All interested parties are expected to make all reasonable efforts to **obtain** and **submit** all relevant information to the decision body as soon as the information becomes available. This means:

- An interested party must **obtain** information without unreasonable delay (see Questions 4 and 5).

AND

- An interested party must **submit** information within a specific time period (see Questions 6 and 7).

4. *What if there is a delay in obtaining information as new evidence?*

To be considered, new information needs to be obtained without **unreasonable delay**. This means the information must be obtained immediately or as soon as reasonably possible after a decision is made.

For example, if a worker disagrees with a decision, they must obtain information that could impact the decision (e.g., undergo new diagnostic testing, obtain a second opinion) as soon as reasonably possible after the decision is made.

Unless there are **exceptional and justifiable** reasons for a delay in obtaining the new information, it will not be admitted as evidence.

Examples of exceptional and justifiable reasons for a delay in obtaining new information might include, but are not limited to:

- There are new clinical findings (not available at the time of the original decision) that lead to a change in diagnosis
- The interested party relied on someone else that they trusted to seek and/or obtain new evidence on their

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Delay in obtaining new information (continued)

behalf, it was reasonable for them to rely on that person and, once they became aware that the person had failed to obtain new evidence, they took reasonable and timely action

- The interested party was unable to seek and/or obtain new evidence due to a diagnosed mental or physical incapacity or they were prevented from doing so because of some other valid reason

5. *What is considered when determining whether information was obtained without unreasonable delay?*

If new evidence was reasonably available (or could reasonably have been made available) immediately or as soon as possible after a decision was made, the body deciding the issue considers why the information was not obtained at that time.

If there are no exceptional and justifiable reasons why the information was not obtained at that time, the body deciding the issue may decide not to apply the test of new evidence (Questions 10-12) and the reconsideration may not be allowed (e.g., if a worker or employer waits multiple years before gathering new information that could reasonably have been obtained at the time of the initial decision or immediately afterward, the information in question may not be considered as new evidence and the reconsideration may not be allowed).

For example, a worker disagrees with a decision made 10 years ago and obtains a new functional capacity evaluation from a new physician.

Unless there are exceptional and justifiable reasons for why the functional capacity evaluation was not obtained within a reasonable timeframe after the original decision was made, this is an unreasonable delay in obtaining the information and the reconsideration is not allowed

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6. *What are the time limits for submitting new information to support a request for reconsideration?*

For WCB and DRDRB, the time limit for submitting new information to support a request for reconsideration is **one year from the date that the new information is discovered or becomes available**. Submitting information means providing the decision body with the new information (e.g., copies of medical reporting, copies or witness statements) and/or informing the decision body of the existence of the new information so it can be gathered.

The AC outlines its time limit for submitting information as new evidence in its appeal rules and practice guidelines.

7. *Can the time limit for submitting new information to WCB or the DRDRB be extended?*

No, the time limit cannot be extended. An interested party has one year from the date that the new information is discovered or becomes available to submit the information to WCB or the DRDRB.

8. *Who determines whether information was obtained without unreasonable delay and submitted within the time limit?*

The determination of whether information was obtained without unreasonable delay (Question 4) and submitted within the time limit (Question 6) is made by the body that last made a decision on the issue submitted for reconsideration.

When the decision in question was made by:

- WCB (and has not been reviewed by DRDRB or the AC), then WCB determines whether the information was obtained without unreasonable delay and submitted within the time limit
- the DRDRB, then DRDRB determines whether the information was obtained without unreasonable delay and submitted within the time limit

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*Who determines
unreasonable delay and time
limit (continued)*

- the AC, the AC determines whether the information was obtained without unreasonable delay and submitted within the time limit

If it is determined that the information was obtained without unreasonable delay and submitted within the time limit, the information is reviewed to determine if it is new evidence (see Questions 10-12).

9. *Can the decision about time
limit and unreasonable delay
be reviewed or appealed?*

Yes, a decision not to admit evidence because there was an unreasonable delay in obtaining the information or the information was not submitted within one year from the date the information was discovered or became available can be reviewed or appealed, subject to the same right of review or appeal as any other claim or employer account decision (see Application 3).

10. *What is new evidence?*

New evidence is new information that may affect a previous workers' compensation decision. To be considered new evidence, it must meet all of the following criteria:

- the evidence is **material** – it is relevant to the issue in question; and
- the evidence is **new** – information is new if it was not available to the decision-maker or if it provides information that is not already on file; and
- the evidence was **not reasonably available at the time the decision was made** – it could not have been presented by the worker or employer at that time; and
- the evidence is **substantive** – it gives new information that could establish a fact that could impact the decision; and

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New evidence (continued)

- the evidence is **probative** – it is reasonably capable of proving (or disproving) a relevant fact at issue in the initial decision (i.e., alters the balance of probabilities if it proves/disproves a relevant piece of information); and
- the evidence is **factual** and **objective**

Information is *not* new evidence if:

- it consists of an opinion on evidence that was available to the original decision-maker; or
- it reiterates, reviews, or is an argument about information that is already on file; or
- it pertains to a different time period than the issue under reconsideration; or
- it simply summarizes or reformats information that was considered by the decision-maker when the decision was made

For example, a medical report is not new evidence if it:

- consists of the same clinical findings, by the same or another physician of the same specialty, already taken into account by the decision-maker, or
- provides a new opinion but is not based on new scientific evidence (e.g., new tests or examinations) as this would not provide any new information that was not available to the original decision-maker, or
- assesses a worker's current state as opposed to their state at the time of the issue under reconsideration (e.g., a functional capacity evaluation completed today is not new evidence regarding a worker's functional abilities from several years ago). As the information pertains to a different time period than the issue under

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APPLICATION 2: RECONSIDERATIONS (NEW EVIDENCE)

New evidence (continued)

reconsideration, it is not relevant to the original decision and is not new evidence

New evidence may include, but is not limited to:

- health information
- work-relatedness
- fitness to work earnings information
- information about employer operations
- administrative review findings that identify previous errors or omissions
- appeal findings
- various other relevant facts

11. *Who decides whether information is new evidence?*

The same body that made the decision about whether the information was submitted within the required time limit and without unreasonable delay (see Questions 3-8) determines whether the submitted information is new evidence.

When the decision in question was made by:

- WCB (and has not been reviewed by the DRDRB or the AC), then WCB determines whether the information submitted is new evidence
- the DRDRB, then DRDRB determines whether the information submitted is new evidence
- the AC, the AC determines whether the information submitted is new evidence

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APPLICATION 2: RECONSIDERATIONS (NEW EVIDENCE)

Who decides new evidence (continued)

To qualify as new evidence, the information submitted with the request for reconsideration must meet the definition of new evidence under Question 10.

If the evidence is determined *not* to be new evidence, the reconsideration is not allowed.

12. *Can the decision about new evidence be reviewed or appealed?*

Yes, a decision about whether submitted information is new evidence can be reviewed or appealed, subject to the same right of review or appeal as any other claim or employer account decision (see Application 3).

13. *If it is determined there is new evidence, what issues can be reconsidered?*

If there is new evidence, the decision body only reconsiders the issue(s) that are:

- submitted for reconsideration to the decision body (i.e. the original decision), and
- related to the new evidence

14. *If it is determined there is new evidence, who reconsiders the original decision based on the new evidence?*

If it is determined that the information submitted is new evidence, the **original decision** is reconsidered by the body that last reviewed that original decision. The original decision is the issue submitted for reconsideration.

If the DRDRB is the last decision maker, it can choose to send the issue to WCB for review based on the new evidence.

If the AC is the last decision maker, it can choose to send the issue to WCB for review based on the new evidence.

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15. *Once the original decision is reconsidered, can that reconsideration decision be reviewed or appealed?*

If after reconsidering the new evidence, the decision body **overturns the original decision**:

- that decision is subject to the same right of review or appeal as any other claim or employer account decision, and
- the timeframe for review or appeal starts from the date the original decision is overturned

If after reconsidering the new evidence, the decision body determines the new evidence **does not alter the original decision**:

- the **original** decision is subject to the same right of review or appeal as any other claim or employer account decision
 - the timeframe for review or appeal starts from the date of the original decision, not the date the decision body determined the new evidence does not alter the original decision
- the **reconsideration** decision (i.e., the decision that the new evidence does not alter the original decision) is subject to the same right of review or appeal as any other claim or employer account decision
 - the timeframe for review or appeal starts from the date of the reconsideration decision, and
 - DRDRB or AC may only consider whether the reconsideration decision is **correct**

For timeframes for review and appeal, see Application 3.

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| 16. <i>If a decision is changed based on new evidence, when are decisions effective?</i> | See Application 4 for implementing a changed decision. |
| 17. <i>When is this policy application effective?</i> | This policy application [Application 2 – Reconsiderations (New evidence)] is effective July 1, 2024, and applies to all decisions relating to new evidence on or after that date, except when noted otherwise in a specific policy section(s). |

Previous versions

Effective July 1, 2024, Policy 01-08 was renamed and restructured. See [Document History](#).

Previous versions for October 2002 – July 2024:

Policy 01-08, Part II, Application 1: Interaction with the review and appeal processes

- [Policy 0108 Part II - Application 1 - April 2021](#)
- [Policy 0108 Part II - Application 1 - September 2018](#)
- [Policy 0108 Part II - Application 1 - April 2018](#)
- [Policy 0108 Part II - Application 1 - August 2015](#)
- [Policy 0108 Part II - Application 1 - January 2006](#)
- [Policy 0108 Part II - Application 1 - January 2004](#)
- [Policy 0108 Part II - Application 1 - January 2003](#)
- [Policy 0108 Part II \(1st Issue\) - Application 1 - October 2002](#)

Policy 01-08, Part II, Application 2: Claims

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APPLICATION 3: REVIEWS AND APPEALS

1. *What is the difference between a review and an appeal?*

A review is **internal**, through WCB's Dispute Resolution and Decision Review Body (DRDRB). Under sections 9.3 and 9.4 of the *WCA*, a person who is *dissatisfied with a claim or employer account decision* and who has a *direct interest* in that decision has the right to seek a review of the decision through WCB's DRDRB.

An appeal is **external**, through Alberta's Appeals Commission (AC). The AC is 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 made by WCB under s.21(3).

Under sections 13.1 and 13.2 of the *WCA*, a person who is *dissatisfied with a claim or employer account decision* and who has a *direct interest* in that decision has the right to appeal the decision through the external AC. Most appeals, except for those under s. 21(3), are from decisions of the DRDRB (see Question 5).

For reconsiderations, see Applications 1 and 2.

2. *Who may request a review or an appeal?*

A person with a *direct interest* (see Question 3) in 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 AC.

If a person with a direct interest has an authorized representative (see Question 6), the representative may request the review or appeal on the person's behalf.

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APPLICATION 3: REVIEWS AND APPEALS

3. *What is a direct interest?*

Direct interest means:

- in the case of a claim-related decision, a person who has a direct interest in that claim for compensation (generally the injured worker, the worker's dependant(s), or the accident employer)
- in the case of a premium assessment or employer account decision, a person who has a direct interest in that premium assessment or account decision (generally the employer)

4. *Does a request for review or appeal need to be in writing?*

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

5. *Does there need to be a DRDRB decision before an appeal to the AC?*

Yes, DRDRB must conduct an internal review and issue its decision before a formal appeal may be made to the AC, *except* for determinations made under s.21(3) of the *WCA* which can be appealed directly to the AC without a DRDRB decision.

Under s.21(3), any party to an **action** may, on notice to the other parties, apply to WCB for determination of whether a worker who is a party to the action is entitled to compensation under the *WCA* and *WC Regulation*.

6. *Do parties need someone to represent them, or can they represent themselves?*

The review and appeal processes are informal. A party with a direct interest in the review or appeal may handle the review or appeal themselves.

If a party with direct interest in a review or appeal prefers, they can authorize a representative to participate in the review or appeal on their behalf. An authorized representative may be a lawyer, consultant, family member, or anyone else with the appropriate written authorization. Signed authorization is required, confirming the

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APPLICATION 3: REVIEWS AND APPEALS***Authorized representatives
(continued)***

representative has the authority to act on behalf of the interested party.

The party who authorizes a representative is responsible for any fees charged by that representative.

Injured workers and eligible employers also have the option to ask for assistance from the Advisor Office for Alberta Workers' Compensation. The Advisor Office is established by the Government of Alberta and is independent from WCB.

7. *Who can request and receive information related to a review or appeal?*

Under s.147 of the *WCA*, if a matter is being reviewed or appealed, the following individuals are entitled to copies of information in WCB's possession that relates to the claim or employer matter under review or appeal, including personal information:

- the worker, or the worker's authorized representative;
- in the case of the death or incapacity of the worker, the worker's personal representative or dependant, or the authorized representative of any of them;
- the employer or the employer's authorized representative;
- a person with a direct interest (see Question 3) in the claim or employer matter that is the subject of the review or appeal, or the authorized representative of that person.

See Question 6 for information on authorized representatives.

For more information on disclosure of information, see Policy 01-02, Part II, Application 2.

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8. *Is there a time limit for filing a request for review with WCB's DRDRB?* Yes, if a party with a direct interest disagrees with a WCB decision they have one year from the date of the decision to request, in writing, an internal review by DRDRB.
9. *Can the time limit for filing a request for review with DRDRB be extended?* A party may apply in writing to the Chair of DRDRB (or their delegate) to extend the time period. An extension may be granted when the DRDRB determines there is a justifiable reason for the extension. Examples of a justifiable reason for an extension of the time period might include, but are not limited to:
- There was a lack of proper notice that left the interested party unaware of the decision and that party took reasonable and timely steps to file the request for review once they became aware of the decision
 - The interested party relied on someone else that they trusted to file the request for review on their behalf, it was reasonable for them to rely on that person and, once they became aware that the person had failed to file the request for review, they took reasonable and timely action to file
 - The interested party was unable to request a review due to diagnosed mental or physical incapacity or they were prevented from doing so because of some other valid reason

In considering whether to grant the extension or not, the DRDRB Chair (or their delegate) considers the reasons for late filing 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.

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DRDRB time limit extension (continued)

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

10. *Is there a time limit for filing an appeal with the AC?*

Yes, if a party with a direct interest is dissatisfied with a DRDRB decision, or a determination made under s.21(3), they have one year from the day of the DRDRB decision or WCB determination under s.21(3) to file, in writing, an appeal with the AC.

The AC, not WCB or DRDRB, considers time extensions for appeals.

11. *Is there financial support available to workers and employers during the review or appeal process?*

Temporary financial support, called interim relief, may be available to workers and employers while a decision is under review or appeal. It is provided in **exceptional circumstances** where workers and employers can demonstrate financial need.

For more information on interim relief, see Policy 01-10, *Interim Relief*.

12. *Where can I get additional information and resources?*

For more information on:

- legislative provisions related to review and appeal, see sections 9.3, 9.4, 13.1, 13.2, and 21(3) of the *WCA* and s.11 of the *WC Regulation*
- DRDRB and the internal dispute resolution and decision review process, contact WCB directly or see WCB's website at: www.wcb.ab.ca
- the AC and external appeals, contact the AC directly or see their website at: www.appealscommission.ab.ca

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(continued)*

- the Advisor Office for Alberta Workers' Compensation, contact the Advisor Office directly or see their website at: <https://advisoroffice.alberta.ca>

**13. When is this policy
application effective?**

This policy application (Application 3 – Reviews and Appeals) is effective July 1, 2024, and applies to all reviews and appeals made on or after that date, except when noted otherwise in a specific policy section(s).

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APPLICATION 4: IMPLEMENTING A CHANGED DECISION

1. ***What is a changed decision?*** Previous decisions may be changed following an appeal, a review, or a reconsideration (due to new evidence or administrative reviews that identify previous errors or omissions).

If a previous decision is changed, WCB implements that decision. For example, this may include a change to a worker's benefits or a change to an employer's classification or premium.

For reconsiderations, see Applications 1 and 2. For reviews and appeals, see Application 3.
2. ***When are changed decisions effective?*** The effective date of a changed decision depends on whether it is a result of a reconsideration, review, or appeal.
3. ***What is the effective date of a decision changed by a reconsideration?*** If a decision is changed following a reconsideration that:
 - results in a change in benefits, the effective date is the date the worker or dependant became entitled (benefit increases) or was not entitled (benefit decreases) to the benefits, subject to policies in effect on that effective date
 - results in a premium change, the effective date is determined by the specific policy dealing with the type of change. See Policy 06-03, *Premiums*, for changes in reported assessable earnings, and Policy 07-01, *Classification*, for classification changes
4. ***What is the effective date of a decision changed by a review by DRDRB?*** If a review by the Dispute Resolution and Decision Review Body (DRDRB) results in a changed decision, the DRDRB may specify an effective date. If DRDRB does not specify a date, the effective date will be the same as the effective dates of a reconsideration under Question 3.

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5. *What is the effective date of a decision changed by the AC as a result of an appeal?*

If an appeal to the Appeals Commission (AC) results in a changed decision, the AC may specify an effective date. If the AC does not specify a date, the effective date will be the same as the effective dates of a reconsideration under Question 3.

6. *If a decision is changed and it affects benefits, how are the revised benefits adjusted?*

WCB calculates what benefit payments should have been payable as of the effective date of the changed decision (see Questions 3 to 5).

If the calculation shows that benefits are owing to the worker or dependant, WCB pays the difference between the amount already paid and the adjusted amount that should have been paid. For example, a worker or dependant's benefits may be adjusted because benefits were paid under an incorrect section of the *WCA*. In this example, WCB would pay an amount equal to the difference between the benefits the worker or dependant received under the incorrect section and the amount that should have been paid under the correct section of the *WCA*. If there are ongoing benefits affected by the change, future payments will be adjusted accordingly.

If the calculation shows that WCB paid more to the worker or dependant than they were entitled to, an overpayment is created for excess payments made on or after the effective date). WCB adjusts future payments accordingly.

For information about overpayments, see Policy 05-01, *Compensation Overpayments*. For the impact of a change in benefits on the employer's experience record, see Question 10.

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APPLICATION 4: IMPLEMENTING A CHANGED DECISION

7. *Is interest payable when a decision of WCB or DRDRB results in a benefit increase or a premium refund?*

No, interest is **not payable** when a decision of **WCB or DRDRB** results in a benefit increase owing to a worker or dependant or a premium refund owing to an employer.

Interest is only payable in limited situations when the Board of Directors has issued an Order directing WCB to do so (see Question 8).

8. *Is interest payable when an AC decision results in a benefit increase or a premium refund?*

Interest **may be payable** when a decision of the **AC** results in a benefit increase owing to a worker or dependant or a premium refund owing to an employer provided the Board of Directors has issued an Order directing WCB to do so. Payment of benefits/an increase in benefits owing to a worker or dependant or a premium refund owing to an employer must flow directly out of the AC decision (see Question 9).

Under an order of the Board of Directors, interest is payable by WCB to:

- workers who become entitled to:
 - retroactive amounts owing to them for wage replacement benefits for temporary total or partial disability under sections 56 and 60 of the *WCA*
 - economic loss payments and earnings loss supplements for permanent total or partial disability under section 56 of the *WCA*
- dependants who become entitled to retroactive amounts owing to them for pensions under section 70 of the *WCA* and/or to additional payments paid under sections 71, 72, 73, and 76 of the *WCA*,
- employers who become entitled to a premium refund on premiums paid

as the result of a decision by the **AC**.

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9. *When does payment of benefits/an increase in benefits or a premium refund flow directly out of an AC decision?*

Payment of benefits/an increase in benefits owing to a worker or dependant or a premium refund owing to an employer flows directly out of an AC decision when:

- the AC decision directs WCB to pay benefits or a premium refund, or
- the implementation of an AC decision reasonably and directly results in the payment of benefits, an increase in benefits, or a premium refund

For example:

- The AC determines that a worker is entitled to a retroactive increase in temporary total disability benefits. The retroactive benefit increase flows directly from the AC decision because the AC directed WCB to pay the increased benefits.
- The AC determines that a claim that was previously denied is acceptable. As a result of the acceptance of the claim, temporary total disability benefits are paid retroactively. The retroactive benefits flow directly from the AC decision because the acceptance of the claim (i.e., the implementation of the AC decision) reasonably and directly resulted in the payment of the benefits.
- The AC directed WCB to carry out an investigation to determine if an injury was caused by a work accident. WCB conducted the investigation and determined the condition was not related to the work accident. Several years later, WCB obtains new evidence that shows that the condition that was investigated is related to the work accident. WCB accepts the condition and pays retroactive benefits. The retroactive benefits do not flow directly from the AC decision because the acceptance of

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Benefits or premium refunds that flow directly out of an AC decision (continued)

the injury (which resulted in the decision to pay benefits) was reasonably and directly a result of the new evidence and not the AC's direction to investigate the cause of the injury.

10. *If a changed decision results in a benefit reduction, are costs removed from the employer's account?*

If an amended decision results in a benefit reduction, an overpayment is created.

Costs for retroactive benefit reductions may be removed from the employer's experience record, provided the employer did not contribute to the overpayment by providing incorrect information. These costs may be removed from the employer's account, regardless of whether WCB recovers the overpayment.

For information about overpayments, see Policy 05-01, *Compensation Overpayments*. For information on cost relief for overpayments, see Policy 05-02, *Cost Relief*.

11. *What if WCB requires supplementary information from a specific point in time to implement a changed decision?*

As time elapses, supplementary information from a specific point in time may be more difficult to obtain. In these circumstances, WCB uses information that is available, appropriate, and reasonable.

For example, if WCB's original estimate of a worker's impairment of earning capacity is overturned, WCB may need to re-estimate the worker's impairment of earning capacity (see Policy 04-04). WCB may be unable to identify a specific job, position, or occupation available on the date the worker's impairment of earning capacity began. In this case, WCB may re-estimate the worker's impairment of earning capacity using earnings not lower than the legislated minimum wage in effect on that date.

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APPLICATION 4: IMPLEMENTING A CHANGED DECISION**12. *When is this policy application effective?***

This policy application (Application 4 – Implementing a Changed Decision) is effective July 1, 2024, and applies to all decisions on or after that date, except when noted otherwise in a specific policy section(s).

Previous versions

Effective July 1, 2024, Policy 01-08 was renamed and restructured. See [Document History](#).

Previous versions for October 2002 – July 2024:

Policy 01-08, Part II, Application 1: Interaction with the review and appeal processes

- [Policy 0108 Part II - Application 1 - April 2021](#)
- [Policy 0108 Part II - Application 1 - September 2018](#)
- [Policy 0108 Part II - Application 1 - April 2018](#)
- [Policy 0108 Part II - Application 1 - August 2015](#)
- [Policy 0108 Part II - Application 1 - January 2006](#)
- [Policy 0108 Part II - Application 1 - January 2004](#)
- [Policy 0108 Part II - Application 1 - January 2003](#)
- [Policy 0108 Part II \(1st Issue\) - Application 1 - October 2002](#)

Policy 01-08, Part II, Application 2: Claims

- [Policy 0108 Part II - Application 2 - April 2018](#)
- [Policy 0108 Part II - Application 2 - August 2015](#)
- [Policy 0108 Part II - Application 2 - June 2010](#)
- [Policy 0108 Part II - Application 2 - January 2004](#)
- [Policy 0108 Part II \(1st Issue\) - Application 2 - October 2002](#)