

Chapter: Reconsiderations and Appeals

Legislative authority: section 156

Prevention statement

Preventing injuries is one of the most important responsibilities in the workplace. The Workers' Safety and Compensation Act (the 'Act') establishes the responsibilities of all workplace parties to work together to ensure the physical and psychological health and safety of workers. When injuries do occur, workers and employers must continue to work together to facilitate an injured worker's early and safe return to health and work.

Purpose

This policy provides information to employers and workers regarding the release of claim information to employers.

Definitions

Appeal Tribunal means the appeal tribunal continued under Part 5 of the Act

board means the Workers' Safety and Compensation Board

employer means every association, corporation, individual, partnership, person, society or unincorporated organization or other body having in their service one or more workers in an industry and as further defined in section 77 of the Act

relevant information means information that relates directly to an issue or fact under reconsideration or appeal, or has a tendency to prove or disprove an issue or fact

worker means a person who performs work or services for an employer under a contract of service or apprenticeship, written or oral, express or implied and as further defined in section 77 of the Act

Policy statement

1. General

Employers who have injured workers have the right to receive certain information relating to decisions made on a claim file concerning entitlement and return to work, progress reports and functional ability reports. An employer has the right to receive access to relevant information on a worker's claim file if they are a party to a reconsideration or appeal.

Effective date: July 1, 2022

2. Process or appeal

An employer who is a party to a reconsideration or an appeal, may, upon written request, be granted access to information the board considers relevant on a claim file to the issues under reconsideration or appeal.

Only relevant information will be released. If a document contains personal information relevant to the issue of appeal, it will be disclosed. Personal information not relevant to the appeal will not be disclosed.

2.1 Worker objection

A worker or the dependants of a deceased worker will be notified when an employer requests relevant information arising out of a reconsideration or appeal. The worker or the dependants of a deceased worker may object to the release of any information determined by the board to be relevant to the issues.

A worker or the dependants of a deceased worker who object to the release of any information must do so in writing within 14 days of the date of the notice received from the board. The board will make the determination of whether the information is relevant and should be released to the employer.

The worker, dependant of a deceased worker, or employer can appeal the decision of the board directly to the Appeal Tribunal. If the Appeal Tribunal determines that the information is relevant to an issue under reconsideration or appeal, the board shall release the information to the employer.

3. Decisions

The board must notify a worker's employer as soon as practicable of any decision concerning entitlement to compensation, including decisions regarding:

- a. whether or not the claim has been accepted;
- b. the worker's entitlement to benefits;
- c. whether a worker is fit to return to work;
- d. whether benefits have stopped; and
- e. whether case management is taking place.

4. Progress reports

An employer of a worker who has made a claim for compensation will, upon written request, receive a progress report concerning that worker.

The progress report may contain:

- a. the current status of the worker regarding their fitness to return to work;
- b. information on whether the worker will be sent outside of the territory for health care services or rehabilitation; and
- c. any proposed or active rehabilitation plan.

5. Functional abilities reports

With the consent of the worker, the employer or employer representatives may disclose functional abilities information received from their worker or the board in accordance with policy 4.4 Duty to Co-Operate, Part 3 of 4: Functional Abilities.

6. Confidentiality of information

Any information released to an employer must be kept confidential and may not be used by an employer for any purpose other than to facilitate the recovery and return to work of the worker.

Any information released to an employer as part of a reconsideration or appeal is confidential and may not be used by an employer for any purpose other than a reconsideration or appeal unless authorized by the board.

7. Fees

No fees will be charged to an employer or their agent for the initial copy of a claim file.

Any subsequent requests will be subject to an administration fee.

History

AP-04 Release of Claims Information to Employers, effective July 1, 2008, revoked July 1, 2022

CL-44 Release of Claims Information to Employers, effective November 17, 1993, revoked July 1, 2008