



Policy Amendment Proposal

AP-04 Employer Access to Claim Information

This policy amendment proposal relating to an employer's access to claim information will reflect the issues consulted on during the engagement for the *Workers' Safety and Compensation Act* (the 'Act') and will align the amendments made in the new legislation.

The new Act comes into force July 1, 2022. The intended effective date of the proposed policy amendments will be July 1, 2022.

The proposed amended Employer Access to Claim Information policy will reflect minor changes to ensure consistency with the provisions of the Act.

A five-year policy review plan will be developed later in 2022. After July 1, 2022, all amended policies to align with the new Act will be prioritized for a more detailed review.

The purpose of this policy is to provide information to employers and workers regarding release of claim information to employers.

Relevant sections of the Act

The following sections of the Act are relevant:

- 156 access to information respecting a claim for compensation

Proposed minor changes to this policy are highlighted in yellow

- minor changes to section references, language and definitions
- new policy title to reflect Act terminology
- new appeal structure for access requests
- consolidation of confidentiality of information into a separate section
- sets out the timelines for a worker to object to the release of information (currently Board Order 2008/26, Release of Information)

Board Orders/Regulations

The following board order/regulation will be revoked as content has been incorporated into the policy amendment proposal:

- [2008/26 Release of Information](#)

Current policy

[AP-04 Release of Claims Information to Employers](#)



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The board of directors is providing this policy amendment proposal to stakeholders seeking their input, comments, questions and suggestions.

Some questions for consideration:

1. Are there any general comments about this policy proposal?
2. Are there any gaps in this policy proposal?
3. Additional comments?

The views of our stakeholders are important to us. All feedback will be considered prior to the board of directors approving any amendments.

Engagement on this policy proposal closes on **March 31, 2022**. Please provide your feedback by:

1. Downloading a [fillable form](#) on our website and sending it as an attachment to Policy.Feedback@wcb.yk.ca
2. Emailing comments directly to Policy.Feedback@wcb.yk.ca
3. Receipt in our building by March 31, 2022, by mail or drop off at
Yukon Workers' Compensation Health and Safety Board
401 Strickland Street
Whitehorse, Yukon Y1A 5N8

By the end of April a summary of all feedback on this policy amendment proposal will be published on our website at www.wcb.yk.ca



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Preventing work-related injuries is the most important job in any workplace. The *Workers' Safety and Compensation 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.

2. Reconsideration 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.



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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.

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, defendant 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;



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- 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 board policy, "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.