

 Yukon Workers' Compensation Health and Safety Board	<b>Part:</b>	<b>Appeals</b>		
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## **LIMITATION PERIODS FOR CLAIMS REVIEWS & APPEALS**

### **GENERAL INFORMATION**

A worker, dependent of a deceased worker, or employer who disagrees with a claims decision made by the Yukon Workers' Compensation Health and Safety Board (YWCHSB), or a hearing officer of YWCHSB, or the Workers' Compensation Appeal Tribunal (Tribunal), may file a request for a review or appeal of that decision within 24 months of the decision.

### **PURPOSE**

This policy explains the limitation period for reviews and appeals. Under subsection 52(1) of the *Workers' Compensation Act* S.Y. 2008 (the "Act"), a worker, dependent of a deceased worker or employer must file a notice of review or appeal within 24 months from the date of the decision.

### **DEFINITIONS**

1. **Appeal Process:** the process outlined in the procedures for a hearing officer review or a Tribunal appeal, and sections 52 to 56 of the *Act*.
2. **Appeal Time Limit:** 24 months from the date of a decision, by the written filing of a notice of review or appeal.
3. **Compensation:** any amount payable or services provided under the *Act* in respect of an injured worker.
4. **Decision:** written findings of fact and conclusions based on the *Act* or previous *Acts*, policies and procedures.
5. **Date of the Decision Letter:** the date written by the decision-maker on the letter containing the decision on the day the letter is signed and distributed to the addressee.

**6. Decision-Maker:** the President/CEO and staff of YWCHSB, a hearing officer of YWCHSB, or the Tribunal.

## **POLICY STATEMENT**

The *Act* establishes a limitation period of 24 months in which a worker, dependent of a deceased worker, or employer may file a request for review or appeal of a decision.

### **1. Time Limits**

For a review or an appeal, a worker, dependent of a deceased worker or an employer must file, in writing, a notice of request for a review or appeal, within 24 months from the date of a decision.

*Example:*

*An injured worker receives a decision on their claim for compensation dated September 20, 2011. The injured worker or employer has until September 20, 2013, to request a review of this decision to a hearing officer. Once the hearing officer decision is made, the worker or employer has 24 months to appeal that decision to the Tribunal.*

### **2. Decisions**

Decision-makers communicate claim decisions by writing a decision letter which includes:

- the decision;
- the rational explanation, including any applicable policies;
- the information used to make the decision; and
- the advice to both the worker and employer of their right to request a review or appeal of the decision.

The limitation period for claims reviews starts as of the date of the decision letter.

An appeal of a claim decision cannot be filed after the end of the appeal limitation period as stipulated in Section 52 of the *Act*.

When a worker, dependent of a deceased worker, or an employer requests further information and/or clarification from a decision-maker regarding a claims decision, the provision of the requested information does not constitute a new decision. The worker, dependent or employer has 24 months from the date of the original decision letter to appeal that decision.

Where a new decision is made on a file, the scope of any appeal or review occurs only on that new decision, not on any previous decisions for which the appeal periods have ended.

It should be recognized that even though the body conducting the appeal or review is required to consider the entire record of the claim (under subsections 53(1)(c) and 54(1)(b) of the *Act*), the purpose of looking at the entire record is to determine the context for the appeal issue. Neither the hearing officer nor the Tribunal has the jurisdiction to revisit older decisions for which the appeal periods have ended (i.e. 24 months from the date of the decision).

*Examples:*

*Worker*

*A decision-maker has made a number of decisions about wage loss benefits and medical care for a worker.*

*Two and a half years later, after the appeal period on these decisions has ended, the worker brings forth new medical information. She believes she needs further medical treatment outside the territory.*

*The decision-maker denies the request for further medical treatment because the treatment is not related to the original injury. This is a new decision. The worker can appeal this latest decision. The only issue at appeal is the acceptance or denial of the request for further medical treatment and not any of the previous decisions on the claim, because the appeal periods for those decisions have expired.*

*Employer*

*A decision-maker has accepted a claim of a worker and has provided wage loss compensation and medical care. The employer disagrees with the decisions, believing the worker's injury was not work-related. However, the employer does not appeal any of the decisions.*

*Twenty-six months later, after the appeal periods on all decisions on the claim have ended, the worker provides new medical information which the decision-maker finds is directly linked to the original injury. This results in additional compensation for the worker. This is a new decision. The employer can appeal this latest decision, but not any of the previous decisions on the claim, because the appeal periods for those decisions have ended.*

## **APPLICATION**

This policy applies to decision-makers, injured workers, dependents of a deceased worker and employers who wish to review or appeal decisions.

**EFFECTIVE DATE**

This policy comes into effect on July 1, 2011.

**ACT REFERENCES**

Sections 15, 52, 53, 54, 55, 56 and 85

**HISTORY**

AP-02, "Limitation Periods for Claims Reviews & Appeals", effective July 1, 2008, revoked July 1, 2011