

REVIEWS AND APPEALS OF WCB DECISIONS

A Worker's and Employer's Information Kit



BRITISH
COLUMBIA

Ministry of Labour and Citizens' Services
Workers' Advisers

**National Library of Canada Cataloguing in
Publication Data**

Main entry under title:

Reviews and appeals of WCB decisions
: a worker's and employer's
information kit

"Updated and enhanced in March 2005."--P.
Previously published under title: Appealing
WCB decisions : a worker's information kit,
2001.

ISBN 0-7726-5082-9

1. Workers' compensation claims - British
Columbia. 2. Workers' Compensation Board
of British Columbia. 3. British Columbia.
Workers' Compensation Appeal Tribunal. 4.
Workers' compensation claims - British
Columbia. 5. Workers' compensation - British
Columbia. I. British Columbia. Workers'
Advisers Office. II. Title: Appealing
WCB decisions : a worker's information kit.

HD7103.65.C32B74 2003 368.4'1'009711 C2003-960243-5

REVIEWS AND APPEALS OF WCB DECISIONS

A Worker's and Employer's Information Kit

The *Workers Compensation Act* (the Act) of British Columbia gives workers rights to compensation if they are injured on the job. The Workers' Advisers Office is committed to helping injured workers understand what their rights are, and to assisting those who are having problems in getting the benefits they are entitled to. The Workers' Advisers offices throughout British Columbia can be accessed by toll-free telephone calls or www.labour.gov.bc.ca/wab on the Internet.

The Workers' Advisers do not work for the WCB, and their services are free. Workers' Advisers can help you understand WCB policies and procedures, provide you with information about your claim and help you appeal a WCB decision. In some cases, they can represent you during a review or an appeal.

If you are an employer, this kit will assist you. The Employers' Advisers Office can be accessed by toll-free telephone calls or www.labour.gov.bc.ca/eao on the Internet.

This kit explains the law in general. It is not intended to give legal advice. If you need more help, contact one of the organizations listed in the back of this kit.

We would like to thank the members of the Review Division of the Workers' Compensation Board and the Workers' Compensation Appeal Tribunal for their constructive comments and suggestions. Staff of the Workers' Advisers Office provided invaluable insight and expertise throughout the writing process.

More copies of this kit are available from:

The Workers' Advisers Office
#500 – 8100 Granville Avenue
Richmond, BC V6Y 3T6

Tel: 604 713-0360 Fax: 604 713-0311

This kit is also on the Workers' Advisers website.

This kit was updated and enhanced in February 2005 to reflect legislative changes and suggestions for improvements from workers, union representatives and Advisers.

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Who is this kit for?

This kit is for you if you are:

- ◆ A Worker
- ◆ An Independent Operator
- ◆ A Dependant of a deceased Worker
- ◆ An Employer

And you are applying to the Review Division for a review of a decision of the Workers' Compensation Board of British Columbia (WCB)

Or,

You are appealing a WCB or Review Division decision to the Workers' Compensation Appeal Tribunal (WCAT)

Or,

You are participating in a review or an appeal by your employer of a WCB decision to the Review Division or WCAT.

The information in this kit will also be useful for workers' representatives (union representatives, community advocates) who are helping a worker with a review or an appeal of a decision of the WCB or Review Division.

At the back of this kit is a list of some of the words and abbreviations you will find on the following pages with explanations of what they mean.

What about workers or employers who do not speak English, or have problems reading?

Factsheets on the new review and appeal system are available in Chinese and Punjabi on the Workers' Advisers website (www.labour.gov.bc.ca/wab). If you need more help, the Appendix at the back of this kit includes the names of several places that provide translation services. The Review Division and WCAT provide translators for any hearing if a worker requests this.

The Workers' Advisers Office makes every effort to ensure publications are in plain language. If you have difficulty reading our publications, please contact us.

Code of Conduct for Representatives

WCAT's Manual of Rules, Practices and Procedures (MRPP) includes a Code of Conduct for Representatives to provide guidance to representatives, setting out minimum standards of behaviour (see 24.20 of the MRPP). The following is a summary of WCAT's Code of Conduct.

1. A representative must not put forward any information if he or she knows it is not true and must not knowingly assist or encourage a worker to be dishonest or misrepresent the facts.
2. A representative must be prepared. This includes being familiar with the worker's WCB file and the relevant law, policy and precedent decisions.
3. The representative must obtain authorization from the worker to act on the worker's behalf. The representative must ensure that the worker knows ahead of time what the representative is going to do and approves of what the representative is going to do.
4. A representative must observe the tribunal's rules, practices and procedures. In particular, the representative must know what the deadlines are for presenting submissions and scheduling hearings. The representative must be able to provide information or submissions on or before the deadline or find another representative (acceptable to the worker) who can.
5. A representative must behave courteously and respectfully to tribunal staff and panel members, witnesses (if they are present) and the employer and employer's representative. The representative must also instruct the worker and the worker's witnesses to behave courteously and respectfully.
6. A representative must notify the tribunal of any concerns about bias by the person making the decision. This should be done as soon as possible and preferably before the hearing. Allegations of bias should not be made frivolously.
7. A representative must respect the confidentiality of information disclosed during a hearing and not use the information for any other purpose without the consent of the tribunal and all interested parties.

8. A representative should not attempt to contact a decision-maker directly, unless invited to do so. Communication with a decision-maker outside the hearing process must be through the registrar's office.

Helpful tips for injured workers and their representatives

These techniques are useful when you are talking to staff at the Workers' Compensation Board, the Review Division, WCAT, and at your hearing.

- ♦ Keep accurate and current information in writing. This includes taking notes of phone calls (with dates and times and who you have been talking to). **Keep copies of all documents that you send to the WCB.** Note when you sent them and how (registered mail, fax, etc.).
- ♦ Even though it is your claim and what happens is very important to you, try to be as objective as possible.
- ♦ When you are dealing with the WCB be assertive, but do not lose your temper. Having a friend or relative go with you to a meeting can help you stay calm. If you find yourself losing your temper on the phone, tell the person that you will call them back when you are calmer.

If you are acting as a representative for a worker, here are some additional things to remember.

- ♦ As a representative, you are giving the worker information, *not legal* advice. Make sure that the worker knows that you are not a lawyer.
- ♦ Get the worker's written authorization in order to act as his or her representative. You will need this before you can get any information on the worker's behalf, particularly from doctors.
- ♦ Explain to the worker that all the information she or he gives you will be confidential; you will not release any information without the worker's permission.
- ♦ Discuss all aspects of the case with the worker. This should include informing him or her that there are risks to appealing and that it is possible that the worker might lose benefits if he or she goes ahead with the appeal. The final decision about proceeding must be the worker's own.

- ♦ During hearings, you can be assertive and even forceful, but do not lose your temper. If you need a break during the hearing to calm yourself, ask the panel for one.

How can I find out what is in my WCB file? (“Disclosure”)

In most cases, all the information about your claim at WCB is in your claim file in the Compensation Services Department. Occasionally, WCB will have information about you in other files. (For example: if WCB’s Investigations Department has observed your activities, the results of the investigation may be in an investigation file, but not in your claim file.) You must make separate requests for disclosure of your claim file and other files using different forms.

How can I get a copy of my claim file?

You can ask for a copy of your claim file at any time by completing the Request for Disclosure form and sending it to the Disclosure Department at WCB. Only one copy will be provided to you, free of charge. Later, you can send in another Request for Disclosure form and receive copies of documents placed in the file since your last request, also free of charge. A copy of the Request for Disclosure form is included in the Appendix. You can also get a copy on the WCB’s website, at www.worksafebc.com on the Internet.

If you ask for a review or appeal of a WCB decision, you will receive a copy of your claim file as part of the review or appeal process.

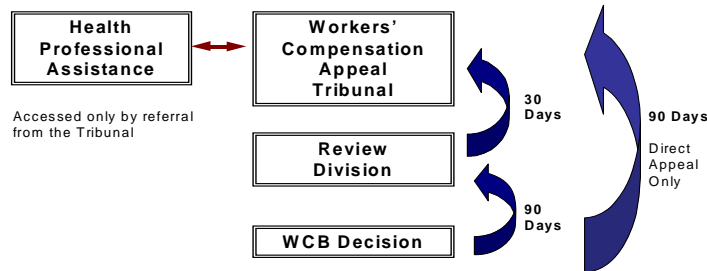
Tip: The Workers’ Advisers Office suggests that you ask for a copy of your file as soon as you have concerns about how your claim is being handled.

How can I get a copy of other files the WCB may have about me?

B.C.’s *Freedom of Information and Protection of Privacy Act* (FIPPA) gives workers the right to see any personal information WCB has collected about them, and to ask that errors in the information be corrected (see section 2 of FIPPA.) To ask for information under FIPPA, you must fill out the form Request for Access to Records: Freedom of Information and Protection of Privacy. A copy of the form is included in the Appendix. You can also get a copy on the WCB’s website (www.worksafebc.com).

Make sure you are aware of your deadlines and that you send your information and forms in on time.

Review and Appeal process and timelines



This represents the appeal system as of March 3, 2003.

REVIEWS OF WCB COMPENSATION OR REHABILITATION DECISIONS

If you disagree with a WCB decision about your claim you can request that the Review Division review the decision.

What is the Review Division?

The Review Division is part of the WCB, but it is independent of the operating divisions of the WCB.

The Review Division has been established to provide impartial reviews of WCB decisions made under the Act. The Review Division has the power to change the WCB decision. However, the Review Division will only do this if:

- ♦ The decision is inconsistent with the law and WCB policies, or
- ♦ The evidence has not been properly weighed, or

- ♦ There is significant new evidence to support a change in the original decision. Review Division decisions are made by Review Officers.

Can I request a review of any decision about my claim?

You can ask for a review of any WCB decision about compensation or rehabilitation benefits (except for decisions about the reopening of your claim for benefits). **There is a 90-day time limit from the date of the WCB decision to request a review.**

If you want to dispute a decision not to reopen your claim for benefits, you can appeal the decision directly to the Workers' Compensation Appeal Tribunal (WCAT). **The time limit for a direct appeal of a reopening decision to WCAT is 90 days.** Please see our Factsheet *Appeals to the Workers' Compensation Appeal Tribunal*.

If the WCB has made a decision concerning your claim, you have the right to receive a decision letter. If you have not received the decision in writing, you should call the WCB and ask for a decision letter.

Disclosure

When you send the Request for Review form, the WCB will send you a copy of your complete claim file. You can ask for a paper copy of your claim file or, if you prefer, a CD-ROM version of your claim file.

Tip: For most workers, a paper copy of the claim file is more useful. You have to print pages of the CD-ROM version to make notes, and sometimes you may find your computer or printer are not able to do this.

You should receive disclosure of your file approximately four weeks after you file a Request for Review form. If you do not, you should contact the WCB's Disclosure Department by telephone:

Phone: 604 279-7607
Toll-Free in B.C.: 1 888 967-5377, local 7607

*Tip: You can ask for disclosure of your file at any time, even before you file a Request for Review Form. If you ask for disclosure before filing the Request for Review form, **do not miss the 90-day deadline for filing the Request for Review form.***

How do I request a review?

You must complete, sign and send in your Request for Review form to the Review Division within **90 days** of the date of the WCB decision letter. You may send in the Request for Review form to the Review Division by mail or by fax.

Mailing Address: Review Division
 Workers' Compensation Board
 PO Box 2071 Stn Terminal
 Vancouver, B.C. V6B 3S3

Phone: 604 214-5411
Toll-Free in B.C.: 1 888 922-8804
Fax: 604 232-7747

You may also drop off the form at any WCB office in B.C. If you do this, we recommend you obtain a receipt confirming the date and time you delivered the form.

You must attach a copy of the WCB decision letter you want reviewed.

*Tip: Once you send in the Request for Review form, the Review Division will ask you to send in any additional evidence that you are able to get to support your case, usually within **28 days**. Act promptly to get the evidence you need so the Review Officer can consider it.*

If you do not have the evidence you need within **28 days**, you should ask the Review Division for more time.

You can send in the Request for Disclosure form immediately and wait to send in the Request for Review form until closer to the 90-day deadline. This way you will have more time to get evidence before the review process starts. **If you do this, be sure not to miss the deadline. If you miss the deadline, it is often impossible to get an extension of time to request a review.**

Filling out the Request for Review form

The first thing you must be sure of is that the decision letter you want reviewed actually denied the benefits or services you want. If it does not, we suggest that you call or write the WCB and ask for a decision letter about the benefits or services you think you should receive.

If you are disputing more than one decision letter you must send in a separate Request for Review form for each decision letter you want reviewed by the Review Division.

The Request for Review form is available on the Workers' Advisers website: www.labour.gov.bc.ca/wab or you can pick up a copy at any Workers' Advisers Office. It is also available on WCB's website: www.worksafefbc.com or you can pick up a copy at any WCB office.

You must sign the Request for Review form. Your representative may sign the Request for Review form for you, but you must give your representative written authorization to act for you, and the authorization must be attached to the Request for Review form. An authorization form can be found on-line at: www.worksafefbc.com on the Internet.

Remember, the form must be submitted to the Review Division within 90 days of the WCB decision.

What happens if my Request for Review is late?

If the Review Division does not receive your Request for Review form before the deadline, you can request an extension of time.

Warning: Extensions of time are rarely granted. If you need to ask for an extension of time, you must do so **as soon as you know you missed the deadline**. After you have done this, you may wish to get advice from your union representative or from the Workers' Advisers Office for assistance with making additional submissions to the Review Division.

The Chief Review Officer may grant your request only if both the following conditions are met:

- ◆ You can give a very good reason to explain why you could not file within the 90-day deadline, and,
- ◆ You can show that it would be unjust not to grant your request.

You need to explain in writing why your request was late and why it would be unjust not to review the decision. You must attach this to the Request for Review form and send it to the Review Division.

Who can help?

Your trade union

If you are a member of a trade union, there may be people in the union who can help you with your review case. Call your union and find out.

Workers' Advisers

The Workers' Advisers Office can give you advice and help. A Workers' Adviser may also be able to represent you. **This service is free.**

Do I need a lawyer?

You do not require a lawyer for a review. If you think that you would like one, contact the Lawyer Referral Service at 604 687-3221 or 1 800 663-1919. Whether you win or lose your review case, WCB policy is not to pay legal fees.

Employers' Advisers

The Employers' Advisers Office can give employers advice and help. An Employers' Adviser may also be able to represent you. **This service is free.**

What if I do not speak English?

You should tell the Review Division if you need the help of an interpreter. The Review Division will arrange and pay for an interpreter to be present if a meeting with the Review Officer is needed.

How will my review be considered and decided?

In almost every case a Read and Review process will decide your review. Very rarely, the Review Officer may decide to schedule an oral hearing, where you can appear in person to give evidence. You may have an oral hearing when:

- ◆ Credibility is an important issue, or
- ◆ An oral hearing is required to determine significant facts in dispute.

Read and Review

Read and Review means that the Review Officer will read your file and make a decision on your appeal based entirely on written information.

As part of the read and review process, you must complete a Review Division Submission form. A copy of the form is at the end of this kit along with an information sheet. You can also print a copy of the form from the WCB's website at www.worksafebc.com.

The Review Division will send you this form along with an Information Sheet explaining how to complete the form and a due date for completing the form. It is very important that you return the form on time or ask for more time if needed.

Your employer will be invited to participate. If your employer participates, they can send in a submission as well. You will then be given an opportunity to reply to your employer's submission.

Filling out the Review Division Submission form

The form asks you if you have received your complete WCB file. If you have copies of documents or reports that should be in your file, attach a photocopy to this form. Remember to keep your original copy with your file.

You can write a letter to the Review Officer and tell your side of the story. You can explain why you think you should get the benefits you want. This is called a written submission. You can attach a copy of this letter to the Submission form or you can also write your reasons directly on the form. The Review Division asks that you check at least one of the boxes in section "D" to tell them why you disagree with WCB's decision. You can check "Other reasons" and attach your letter if you are unsure how to answer the questions. You can also contact our office or your union if you need help filling out the form or preparing your written submission. See the section on "effective written submissions".

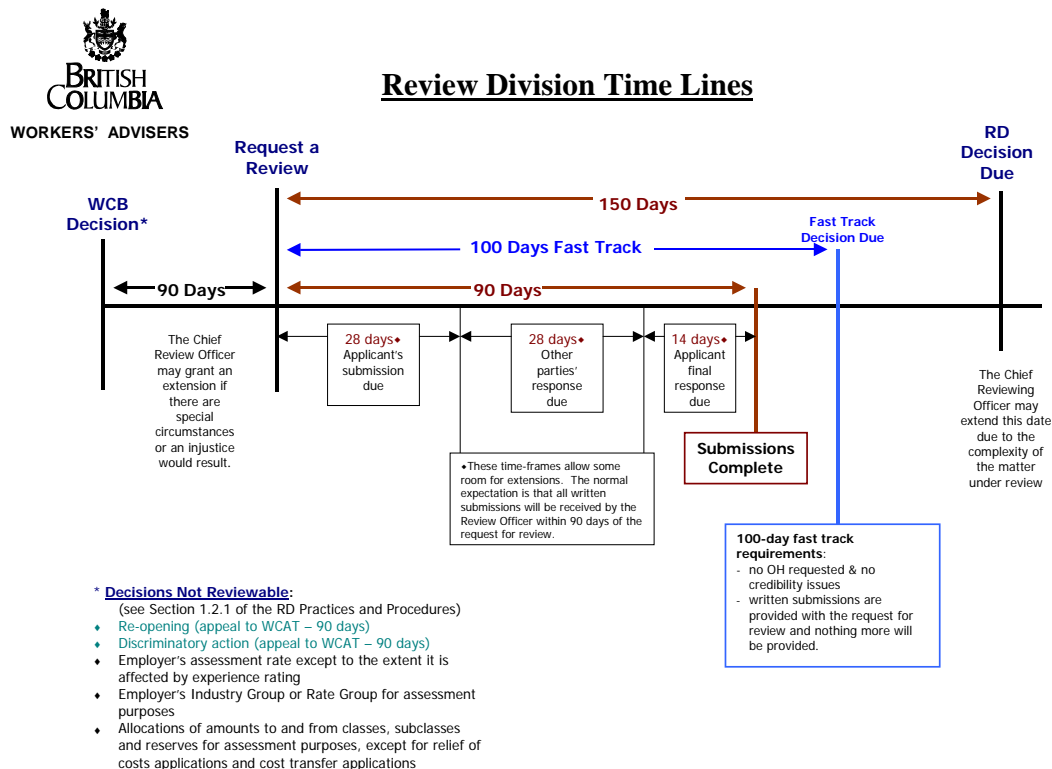
The Review Officer may also contact you by telephone to get more information or arrange an informal meeting with you and your representative.

Oral Hearing

If you believe you need to present your evidence in person to get a fair decision, you can ask for an oral hearing. The Request for Review form has a section where you can state that you want an oral hearing. You will need to explain to the Review Officer why you think an oral hearing is necessary.

If the Review Officer allows an oral hearing, you can ask that it be held at the WCB office closest to where you live. In some cases, the Review Officer may conduct the oral hearing by telephone. You must send in any new written evidence, such as a new medical report, **21 days** before the date of the oral hearing. You should contact the Review Officer immediately if you cannot do this. If you want, you can also give the Review Officer a letter that summarizes your case.

See the section on how to prepare for an oral hearing.



How long do I have to wait for a decision?

The Review Officer must make a decision within 150 days after the Review Division receives your Request for Review form. The Review Officer will send the decision in a letter.

If the Review Officer needs more time to make a decision, he or she can ask the Chief Review Officer to extend the time limit. The Chief Review Officer will only agree if your case is complex.

What happens after the Review Division makes a decision?

If the Review Officer changes the decision in your favour, your file will be sent back to the Compensation Services Division to pay you the benefits ordered by the Review Officer. The Review Officer may also instruct the WCB to further consider a matter and give you a new decision.

In most cases, if the Review Officer does not decide in your favour, you can appeal to WCAT. Please note that you will only have **30 days** to start an appeal to WCAT.

APPEALS TO THE WORKERS' COMPENSATION APPEAL TRIBUNAL (WCAT)

What is WCAT?

WCAT is independent of the WCB. In an appeal, WCAT has the power to change the Review Division decision and some WCB decisions about your claim for benefits.

WCAT decisions are made by a panel of WCAT. A panel comprised of a single WCAT Vice-Chair will decide most appeals. In some cases a three-person panel will decide your appeal. In very exceptional cases, a seven-person panel will decide your appeal.

Who can appeal?

If you are a worker, a dependant of a deceased worker, or an Independent Operator you can appeal a Review Officer's decision to WCAT. If you start an appeal, your employer will be invited to participate in your appeal.

An employer can also appeal a Review Officer's decision to WCAT. If your employer starts an appeal, you will be invited to participate. WCAT will send you a Notice of Participation. If you wish to participate, you must send the completed Notice of Participation to WCAT.

Can I appeal any Review Division decision about my claim?

Not all decisions of the Review Division can be appealed to WCAT. The following types of decisions cannot be appealed:

- ◆ All decisions concerning vocational rehabilitation benefits.
- ◆ Some permanent disability decisions where the assessed percentage of permanent partial disability has a range of five percent or less in WCB's "Permanent Disability Evaluation Schedule." (Note: This does not mean that awards of under five percent cannot be appealed in all cases. You may wish to speak to a Workers' Adviser to get more information.)
- ◆ All decisions about commutations (or lump sum awards) of permanent disability awards.
- ◆ All decisions about the procedures or conduct of a review by a Review Officer.

All other Review Division decisions about your claim for benefits can be appealed to WCAT.

Can I appeal a WCB decision directly to WCAT?

If you disagree with a decision WCB has made, you **must** go through the Review Division process before you can appeal to WCAT. However, a decision by the WCB to refuse your application to reopen your claim must be appealed directly to WCAT.

Disclosure

When you send in the Notice of Appeal form, WCAT will automatically send you a copy of your complete claim file. You can ask for a paper copy of your file, or, if you prefer, you can ask for a CD-ROM disk.

Tip: Most workers find that a paper copy of the claim file is more useful. You have to print pages of the CD-ROM disk if you want to make notes on pages of your file, or highlight portions of the file that have errors. You may find that your computer or printer is not able to do this.

You should receive disclosure of your file approximately four weeks after you file a Notice of Appeal form. If you do not, you should contact the WCB's Disclosure Department by telephone:

Phone: 604 279-7607

Toll-Free in B.C.: 1 888 967-5377, local 7607

*Tip: You can ask for disclosure of your file at any time, even before you file a Notice of Appeal form. **Remember:** you only have 30 days to file an appeal of a Review Division decision. **Do not miss the 30-day deadline for filing the Notice of Appeal form.** If you miss the 30-day deadline, it may be impossible to get an extension of time to appeal.*

How do I start an appeal?

You must send a Notice of Appeal to WCAT **within 30 days of the date of the Review Division decision letter.**

The Notice of Appeal form can be obtained from the Workers' Advisers Office website (www.labour.gov.bc.ca/wab) or from any Workers' Advisers Office. It is also available on the WCAT website (www.wcat.bc.ca) or from the WCB website (www.worksafebc.com).

You must send your completed Notice of Appeal to WCAT.

Mailing address: Workers' Compensation Appeal Tribunal
 150 – 4600 Jacombs Road
 Richmond, B.C., V6V 3B1

Phone: 604 664-7800

Toll-Free in B.C.: 1 800 663-2782

Fax number: 604 664-7898

If time is running out, you can phone WCAT and tell them you want to start an appeal. When you call you will need to provide your name, your mailing address, your phone number and your WCB claim number. You will also need to tell WCAT the date of the Review Division decision or the WCB decision you want to appeal. If you do this before the deadline, WCAT will give you an additional **21 days** to send in the Notice of Appeal form.

Important: If you call in your appeal to WCAT, you should ask for an appeal reference number. This number is your evidence that you called WCAT before the deadline.

Filling out the Notice of Appeal form

You must complete all parts of the Notice of Appeal form, including the following information:

- ◆ Your name, address, and claim number.
- ◆ Your employer when the injury/disease occurred.
- ◆ The date of the Review Division decision you wish to appeal.
- ◆ A brief explanation of why you disagree with the Review Division decision.
- ◆ What you want WCAT to give you, if your appeal is allowed.
- ◆ Whether you want your appeal to be heard by Read and Review or by an oral hearing (see further information in this kit about the difference).
- ◆ Whether your claim involves a complex medical issue.
- ◆ If you have a representative (and if so, the name of your representative).

You must sign the Notice of Appeal form. Your representative can sign the form for you, but if so, he or she must attach an authorization signed by you.

Remember, the Notice of Appeal form must be provided to WCAT within 30 days of the Review Division decision.

After your Notice of Appeal form is received, you will receive a letter of confirmation from WCAT. If you do not receive this letter within 21 days, you should telephone WCAT to confirm that your appeal form has been received.

When WCAT sends you a letter confirming that your Notice of Appeal has been received, it will also send a letter to your employer, inviting your employer to participate in your appeal.

What happens if my Notice of Appeal is late?

If your Notice of Appeal form is not received by WCAT before the deadline, you can request an extension of time.

Warning: Extensions of time are rarely granted. If you need to ask for an extension of time, **you must do so as soon as you know you missed the deadline.** After you have done this, you may wish to get advice from your union representative or from the Workers' Advisers Office for assistance with making additional submissions to WCAT.

The Chair of WCAT may grant your request only if **both** the following conditions are met:

- ♦ You can give a very good reason to explain why it was not possible for you to file within the 30-day deadline, **and**
- ♦ You can show it would be unjust to refuse to give you an extension of time.

You must explain in writing why your request was late and why it would be unjust not to allow you to appeal. You must attach this to the Notice of Appeal form and send it to WCAT.

Who can help?

Your trade union

If you are a member of a trade union, there may be people in the union who can help you with your appeal. Call your union and find out.

Workers' Advisers

The Workers' Advisers Office can give you advice and help. A Workers' Adviser may also be able to represent you. **This service is free.**

Do I need a lawyer?

We expect that most people will not need a lawyer for an appeal. If you think that you need one, contact the Lawyer Referral Service at 604 687-3221 or 1 800 663-1919. Whether you win or lose your appeal, WCB policy is not to pay legal fees.

Employers' Advisers

The Employers' Advisers Office can give employers advice and help. An Employers' Adviser may also be able to represent you. **This service is free.**

What if I do not speak English?

You should tell WCAT if you need an interpreter. WCAT will arrange and pay for an interpreter to be present if an oral hearing is needed.

How will my appeal be considered and decided?

In most cases, your appeal will be decided by Read and Review. In some cases, WCAT may decide to schedule an oral hearing. The decision about how your appeal will be heard will be made by the Registrar's Office at WCAT.

Your appeal will then be assigned to a WCAT panel. In almost all cases, the panel will consist of one Vice-Chair. A few cases will be heard by a three-person panel. In very exceptional cases, a seven-person panel will decide your appeal.

Read and Review

Read and Review means the WCAT Vice-Chair will read your file and make a decision on your appeal without scheduling an oral hearing.

You can write a letter to the WCAT panel and tell your side of the story. You can explain in this letter why you think you should get the benefits you want. This is called a written submission. You can also send the WCAT panel more written information and evidence to support your case.

WCAT will send you a letter inviting you to send in any additional information and written submissions. The letter will tell you when all of your information and written submissions must be received. In most cases, you will get 21 days. If you need more time you can ask for it. WCAT will allow you up to 45 days of extra time to send in more information or submissions.

If your employer participates in your appeal, WCAT will send your employer a copy of your written submission and your new information and evidence. Your employer will be invited to send in additional information and written submissions. Your employer will be given 21 days to do this. If your employer does send in additional information or a written submission, WCAT will send you a copy. WCAT will allow you 14 days to respond to your employer's information or written submission.

When the WCAT panel reviews your case, the panel may decide that an oral hearing is necessary.

Oral Hearing

If you believe you need to present your evidence in person to get a fair decision, you can ask for an oral hearing. You will need to explain in writing on your Notice of Appeal form why you think an oral hearing is necessary.

The Registrar's Office at WCAT will decide whether you will have an oral hearing or whether your appeal can be heard on a Read and Review basis. The WCAT panel can decide an oral hearing is necessary after it reads your written submission.

If you get an oral hearing, you will be allowed to have a representative attend the oral hearing with you. You will also be allowed to bring witnesses to the oral hearing. You must tell WCAT if you plan to bring a representative or witnesses before the oral hearing takes place.

If your employer participates in your appeal, WCAT will invite your employer to attend the oral hearing.

WCAT will hold oral hearings in various cities around B.C. You can ask WCAT to hold the oral hearing at one of these cities closest to where you live. In some cases, WCAT may decide to conduct the oral hearing by telephone.

If WCAT schedules an oral hearing, you must send in any new written evidence, such as a new medical report, **21 days** before the date of the oral hearing. If you cannot meet this deadline you should contact WCAT immediately.

At the oral hearing you will be able to tell the WCAT panel your side of the story. You will also be able to explain to the WCAT panel why you think the decision should be changed. If you want, you can also give the WCAT panel a letter that summarizes your case.

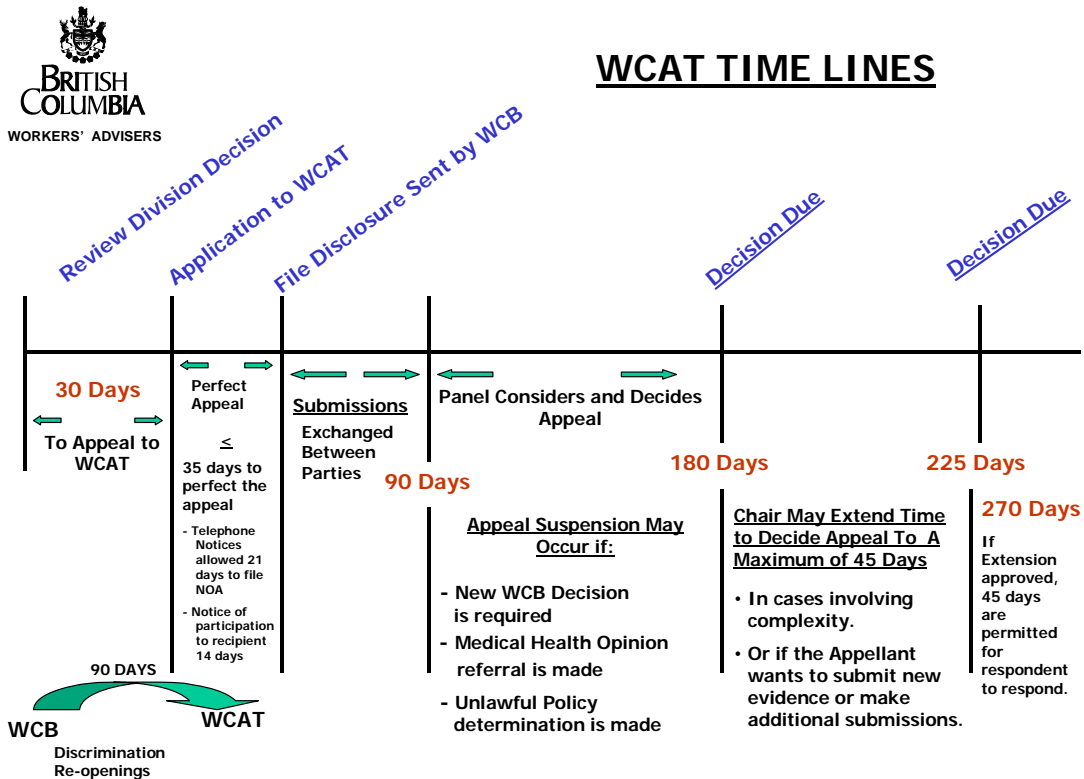
Can WCAT get more medical evidence?

By law, a WCAT panel considering your appeal has the right to ask for a medical opinion if it believes it needs medical evidence to decide your appeal. The doctor or other health care professional who provides this opinion must be independent. This means he or she cannot be an employee of WCB. It also means he or she was not involved in your treatment. The panel will choose the doctor or health professional who will provide the opinion. The doctor or health care professional can ask to examine you.

If the panel decides to ask for an independent medical opinion, it will suspend your appeal while waiting for the opinion. This means that the 180-day time limit for deciding your appeal will be extended.

The doctor or health care professional will send a report to the panel. The 180-day deadline for making a decision will be reinstated as soon as the panel receives the opinion. WCAT will send you a copy of the opinion. An employer who participates in the appeal will also get a copy of the opinion. Both you and the employer will be allowed time to send in a written response to the opinion. The deadline for sending in a response is **21 days**.

Can I ask WCAT to send me to an independent doctor or health care professional?



You can ask the panel to send you to an independent doctor or health care professional. However, the panel can decide whether it will do so.

It is your responsibility to provide evidence for your appeal from your own doctor or other health care professionals who have treated you.

How long do I have to wait for a decision?

By law, WCAT must make a decision on your appeal within 180 days after the WCB has sent you a copy of your claim file.

This means that all new evidence and written submissions must be received by WCAT or an oral hearing held within the first 90 days. The final 90 days will be used by the panel to consider the evidence and submissions and to make its decision.

The 180-day limit can be extended if the panel asks for independent medical evidence. The panel can also extend the 180-day limit if you ask for additional time to get medical evidence from your own doctor. (The panel will decide whether or not to give you more time.)

What happens after WCAT makes its decision?

WCAT will advise you of its decision in writing.

If WCAT decides the appeal in your favour, your file will be sent back to the WCB to pay you the benefits ordered by WCAT.

The WCAT decision is final. If you disagree with the WCAT decision, there is no further appeal available to you.

Is it ever possible to change a WCAT decision?

Although there is no right to appeal a WCAT decision, in very limited circumstances it may be possible to change a decision, by requesting reconsideration of the decision or by going to court to ask for judicial review.

Request for reconsideration

You have the right to apply once to the Chair of WCAT to reconsider the panel's decision. By law, the WCAT Chair may only reconsider a panel's decision in very limited circumstances: for example, if the panel deciding your case made a serious error of law or if there is new evidence which could not have been obtained earlier. If your application is not successful, you will not have the right to apply again. Before asking for reconsideration of a WCAT decision, you should ask for assistance from your union representative or the Workers' Advisers Office.

Judicial Review

In very rare cases, you may ask the court to review a WCAT decision. This is called judicial review. You need to get advice from a lawyer to find out if you have any chance of success if you go to court.

Can I go to the B.C. Ombudsman if WCAT makes a mistake?

You can contact the Ombudsman if you believe the WCAT panel made a mistake involving “administrative unfairness”.

The Ombudsman does not act as an advocate for individual workers. The Ombudsman’s responsibility is to review the policies and procedures followed by an agency, to make sure it is being fair to the people it serves. The Ombudsman cannot change a WCAT decision, but can make recommendations to WCAT if its policies meant that a worker did not get a fair hearing.

PREPARING FOR A REVIEW OR APPEAL

There are four steps you need to take:

1. Read your WCB file.
2. Consider what new evidence you need to win your appeal.
3. Get the new evidence you need.
4. Write your written submission, or,
Prepare for an oral hearing.

Reading your WCB file

As you read through your file, keep in mind the questions:

- ♦ **“Why did the WCB make the decision?”**
- ♦ **“Did the WCB make any mistakes?”**

When you understand why the WCB made the decision you disagree with, you will know what additional information you need to give the Review Division or WCAT, to ensure WCB's error is corrected.

Tip: Try to keep all the pages of your WCB file in the same order in which they are sent to you. One way to do this is to have holes punched in all the pages and put them in a 3-ring binder.

Tip: Sometimes, your WCB file is very thick. You do not have to read every word on every page. We will give you suggestions on what parts you need to read most carefully.

Older files

WCB files are in different formats (paper, electronic or a combination), depending on when they were created. Older paper files (generally, before 1997) are divided into the following sections:

- ◆ Claims
- ◆ Accounts
- ◆ Medical
- ◆ Memo

The Claims part of the file has copies of all the letters sent out on your file, including all decision letters. The Accounts section has copies of receipts for all the money paid to doctors, chiropractors, pharmacies, etc.

Do I have to read everything?

For some reviews and appeals, you may have to review all the information in all the sections of the file. In most cases, the parts of the file you need to read most carefully are the Medical section, and the Memo section.

The Medical section includes copies of all the reports sent in by your doctor, and other medical practitioners who treated you. It will also include reports of all specialists who examined you. If you were treated at a Pain Clinic, or Rehabilitation program, reports from these programs will be in the Medical section. If you receive a permanent partial disability award or pension, the medical assessment on which your award is based will be in the Medical section.

The Memo section has copies of all the notes kept by WCB staff as they were dealing with your file (for example, notes taken during telephone conversations and explanations as to why all the decisions in your file were made). If you receive a permanent partial disability award, the Employability Assessment is usually found in the Memo section.

Newer Files (Efile)

Newer electronic files (later than 1997) usually include the following sections:

- ◆ Key Forms
- ◆ Claims Section
- ◆ Medical Section
- ◆ Claim Log
- ◆ STD (Short Term Disability)
- ◆ Voc Rehab (Vocational Rehabilitation)
- ◆ LTD (Long Term Disability)
- ◆ Accounts
- ◆ Appeal
- ◆ Legal
- ◆ Summary Data Sheet – Part A

The bundle of paper you receive as disclosure will include a single sheet, with each of the above headings. The information that is included under each heading will follow the heading sheet.

The Key Forms section has copies of all the forms you filed when you applied for WCB benefits, plus all the forms filed by your employer.

The Claim section has copies of all letters sent out and received by the WCB.

The Medical section has copies of all reports sent in by your family doctor, as well as reports from specialists and other medical professionals who treated you.

The Claim Log section has copies of all notes made by WCB staff as they were dealing with your file (for example, notes taken during telephone conversations and explanations as to why all the decisions in your file were made).

The STD (Short Term Disability) section of the file contains all the documents related to your wage loss benefits, including the information on which your wage rate is based.

The LTD (Long Term Disability) section of the file contains all the documents related to your award for Long Term Disability. This includes copies of the assessment that was done to determine your degree of disability.

The Voc Rehab (Vocational Rehabilitation) section includes all the documents that deal with help the WCB gives you to get back to work (for example: retraining, job search or income continuity.)

The Appeal section has both historical information and current information. If you filed appeals in the past to the former Review Board or Appeal Division, copies of all decisions they made will be included in this section. Copies of all the documents you submitted as evidence to the Review Board and Appeal Division will also be found here. If you have an ongoing appeal before WCAT, the Notice of Appeal form will be included in this section.

The Accounts section has copies of all invoices submitted in your claim (from doctors and other health care professionals, pharmacies, etc.)

The Legal page will have behind it any documents filed in a court proceeding WCB has started on your behalf or any documents sent to or from the WCB Legal Department. (In most cases, there is no information behind the Legal page.)

The Summary Data Sheet – Part A section is a one-page summary of basic information about you (name, address, social insurance number,) what conditions are accepted and not accepted under the claim.

Do I have to read everything?

For some reviews and appeals, it is necessary to review information in all sections of the disclosure. In most cases, the parts of the disclosure that have to be reviewed most carefully are the Medical, Claim Log, Short Term Disability, Long Term Disability and Voc Rehab sections.

Sometimes information is missing; it is up to you to make sure that everything in your file is up-to-date.

How to gather evidence for your review or appeal

Note: Make sure you keep copies of everything you send in about your appeal.

1. Make sure you have a copy of the written decision about your case from the WCB. If they have not sent you one, ask for it. If the decision is based on WCB policy, ask for a copy of the policy.
2. Make up a file for yourself and put in it:
 - ♦ All the copies you have of letters that you have sent to the WCB and the WCB has sent to you.
 - ♦ Any copies of letters that you have received from your doctor about your condition.
 - ♦ The copy of the decision about your case.
 - ♦ Any other information that you have received from the WCB about your case.
3. Carefully note the dates by which you have to file a Request for Review or Notice of Appeal.
4. Get copies of any other documents that are relevant to your review or appeal. The following are examples, but there may be other documents that you have that you can use as evidence:
 - ♦ For wage rate issues: Revenue Canada T-1, T-4 slips, estimates from professions that the WCB is suggesting you work in.
 - ♦ For medical issues: ICBC or CPP documents.
5. Read your WCB disclosure file carefully and see what information the WCB used when they decided on your claim.
6. See if there is any information missing or if there are any mistakes in information that is already in your file. If so, you need to indicate the errors or obtain the missing evidence. For example, get witnesses to write letters to confirm the facts or missing evidence (make sure that they date and sign the letter) or ask witnesses to come to the oral hearing.

7. If you are appealing on medical grounds, show your doctor the medical opinions of the WCB doctors that are in your file. If your doctor supports your claim, he or she will then know how to write to the Review Division or WCAT. The doctor will probably bill you for his or her opinion. Find out in advance how much this will cost. You may be able to get the money back from the WCB after your review or appeal, but you must first ask the Review Officer or Panel to order the WCB to pay for it. Even if you are not successful they will order the WCB to pay if they think the doctor's opinion was helpful in making their decision.
8. If your review or appeal is decided without an oral hearing make sure you send in all your information by the date that they tell you to do so.
9. If you have new evidence for the oral hearing make sure you send it to the Review Division or WCAT 21 days before the oral hearing date.
10. Write down what you want to say so you remember all the points clearly when you write your submission or appear at an oral hearing.
11. If you are asking witnesses to coming to an oral hearing, make sure they know the date, time and place of the oral hearing.
12. The best evidence is evidence that you can support with facts. It is better to have a witness who can confirm something that happened, rather than saying, "So-and-so told me that she saw..." It is better to have a T4 slip showing your exact income, rather than saying, "I think my income that year was about ..."
13. Make sure you are clear about what benefits or action you want (your remedy) and that you write or tell the Review Division or WCAT what that is.

Effective Written Submissions

An effective written submission should do the following:

- ◆ Provide basic information about you and your appeal.
- ◆ Identify the issues.
- ◆ State exactly what remedy you want.
- ◆ State why you are entitled to the remedy you want (this is called the "argument" or "submissions").
- ◆ State exactly what parts of the law or policy authorize the WCB (or the Review Division or WCAT) to give you the remedy you want.

- ◆ Close with a brief statement that summarizes what you want the Review Division or WCAT to do.

Basic Information

The written submission should start with a heading that lists the following information:

- ◆ Your name and WCB claim number
- ◆ Whether the submission is for the Review Division or WCAT
- ◆ The Review number or Appeal number
- ◆ The date(s) of the letter(s) being reviewed or appealed
- ◆ The date the submission is prepared
- ◆ Who prepared the submission (if it is not the worker)

Issues

Sometimes the decision letter you are appealing will contain several decisions, but you only want to appeal one or two of them. The “Issues” section of the submission should state which decisions are being appealed.

For example, the letter being appealed might say: “I accept that you injured your back on July 15, 2003. However, I do not accept that you injured your right knee. You recovered from your injury by September 15, 2003, so you are entitled to receive wage loss for the period July 15, 2003 to September 15, 2003. Your net wages when you were injured were \$2,000 per month, so your wage loss payments will be \$1,800 per month. You recovered fully from your injury, so I will not refer your file to Disability Awards.”

The “Issues” part of the submission should state how many of the issues you want to appeal:

- ◆ Whether there was a right knee injury on July 15, 2003.
- ◆ Whether you recovered fully by September 15, 2003.
- ◆ Whether your net wages were \$2,000 per month.
- ◆ Whether there is enough evidence of permanent disability to require that your file be referred to the Disability Awards department.

Remedy

In this section you should state exactly what you want the Review Division or WCAT to find.

Referring to the example above, you might want some, or all of the following findings:

- ♦ There was a right knee injury (as well as a back injury) on July 15, 2003.
- ♦ You did not recover from your back injury until October 15, 2003.
- ♦ Your net wages were \$3,000 per month (so your wage loss should be \$2,700 per month, not \$1,800 per month).
- ♦ There is evidence of permanent disability, so your file should be referred to Disability Awards.

Argument

In this section, you should state the evidence that supports the outcome you want. Some or all of the evidence you need may already be in the file, but the Case Manager did not see it, or did not give it the weight he or she should have. You can also obtain new evidence.

If you are submitting new evidence with the written submission, it should be listed at the beginning of this section.

If you are relying on evidence in the file, you can refer to the part of the file where the evidence is found. For example: you can say, "See the entry in the Claim Log dated July 20, 2003," or "See the surgeon's report dated August 15, 2003."

It is also important to refer to evidence in the file that is not favourable to you. For example, if there is a doctor's opinion in the file that states you have recovered from your injury, you should comment on this by stating why the unfavourable medical report should not be relied on. For example, you can say, "The Board Medical Adviser never examined me. My doctor's reports should be preferred, because my doctor has been treating me for 20 years."

Law and Policy

In this section of the submission, list specific sections of law and policy that allow the Review Division or WCAT to give you the remedy you want.

Closing statement

You can end your submission with a brief statement that summarizes what finding you want the Review Division or WCAT to make.

How to prepare for an oral hearing

These are the steps you should take before the oral hearing:

1. Organize the documents you will take to the oral hearing, so you can locate a document without fumbling.
2. Make sure you know the date, time and place of the oral hearing, and notify any witnesses. **It is very important that you are on time for the oral hearing.**
3. Write out an "opening statement." This is a brief statement about what you are asking the Review Division or WCAT to do. (You do not have to read your statement at the oral hearing. However, writing what you want to say ensures you make all the points you need to.)
4. If you are representing yourself at the oral hearing, write everything you want to tell the panel. If you are acting as a representative for a worker, write the questions you are going to ask. If you have asked witnesses to come to the oral hearing, write the questions you will ask them.
5. Write your "argument." This is the closing statement you make to the panel when you tell them why they should make the findings you are asking for. The argument should state, briefly:
 - ♦ All the evidence that supports the finding you are asking for.
 - ♦ Refer to the unfavourable evidence, and explain why it is not reliable, and why the panel should accept the favourable evidence instead.
 - ♦ Refer to the parts of the sections of the law and policy that allow the panel to make the findings you want.

At the oral hearing itself, the usual format followed by most panel members is:

1. You or your representative will be asked to give an opening statement.
2. You give your evidence (or, if you have a representative, the representative can ask questions and you can answer). Then, if the employer is present at the oral hearing, he or she can ask you questions. The panel members can also ask you questions.
3. After you have given your evidence, the witnesses (if any) are called into the hearing room and answer your questions. If they wish to do so, the employer and panel members can also ask the witnesses questions.

4. After all the evidence has been heard, you (or your representative) will be asked to give a "closing statement," or "submission" or "argument." This is a brief statement in which you repeat what finding you want the panel to make. You can also comment briefly on the evidence, by pointing out all the evidence that supports the finding you want, and explain why the unfavourable evidence should not be relied on.

The above format is sometimes varied at the request of either the panel or the worker. For example, if one of the witnesses cannot stay to the end of the oral hearing, the worker can ask that the witness give his or her evidence first.

Do's and Don'ts at an oral hearing

Do:

- ♦ Be clear and precise.
- ♦ Be familiar with how your file is organized and where the relevant pieces of paper to support your argument are.
- ♦ Identify the evidence, policy and law supporting your argument.

Don't:

- ♦ Ignore gaps in your evidence that need to be addressed.
- ♦ Make your oral submission too long. Do not read long passages from the Rehabilitation Services & Claims Manual to the panel. Simply tell them the reference and paragraph number.
- ♦ Focus on the wrong issue. Do not tell the whole story of your case to the panel if they are only asking a specific question.
- ♦ Get into arguments that throw you off track. If you need a break, ask for one.

Where to go for more help

- ♦ Your union or professional association
- ♦ Workers' Advisers Office
- ♦ Disabled Workers' Associations
- ♦ Lawyer referral (\$10 for a half hour consultation with a lawyer; make sure you ask for a lawyer who is experienced in WCB matters)
 - Outside Lower Mainland: 1 800 663-1919
 - Lower Mainland: 604 687-3221
- ♦ Employers' Advisers Office
- ♦ Your MLA's office
- ♦ Immigration service agencies (if you need translation services or contact with a specific community)

Other materials

Workers' Advisers' Factsheets: You can get these Factsheets from the Workers' Advisers Web site (www.labour.gov.bc.ca/wab) or contact the nearest Workers' Advisers Office. These Factsheets contain information about:

- ◆ Activity-Related Soft Tissue Disorders (or Repetitive Strain Injuries)
- ◆ Allergies, Respiratory Illnesses and Chemical Sensitivities
- ◆ Appeals to the Workers' Compensation Appeal Tribunal (WCAT)
- ◆ Arthritis and Heart Conditions
- ◆ Can you make a Separate Compensation Agreement with Your Employer?
- ◆ Canada Pension Plan Benefits and WCB Benefits
- ◆ Chronic Pain
- ◆ Compensable Consequences of Work Injuries
- ◆ Contagious Diseases
- ◆ Continuity of Income Benefits
- ◆ Delays and Complaints
- ◆ Discriminatory Actions
- ◆ Duration of Benefits
- ◆ Employer Appeals
- ◆ Hearing Disorders
- ◆ Injuries Under Unusual Circumstances
- ◆ Interest
- ◆ Inter-Provincial Claims
- ◆ Introduction to Occupational Diseases
- ◆ Late Applications for Workers' Compensation
- ◆ Overview – Reviews and Appeals
- ◆ Permanent Disability Awards
- ◆ Permanent Disability Awards: Lump Sums and Commutations
- ◆ Psychological and Emotional Conditions
- ◆ Retirement Benefits
- ◆ Reviews of WCB Compensation or Rehabilitation Decisions
- ◆ Ten Week Wage Rate Review
- ◆ Third Party Claims
- ◆ Vocational Rehabilitation
- ◆ Wage Rate of Reopened Claims *More* than 3 Years after the Original Injury
- ◆ Wage Rate of Reopened Claims *Within* 3 Years after the Original Claim
- ◆ When Do Wage Loss Benefits Stop?

WCB Appeal Guide for workers and dependants:

www.worksafebc.com/publications/how_to_work_with_the_WCB/assets/pdf/appeal_workers.pdf

WCB Appeal Guide for employers:

www.worksafebc.com/publications/how_to_work_with_the_WCB/assets/pdf/appeal_employers.pdf

Disability Helpsheets:

B.C. Coalition of People with Disabilities
Advocacy Access Program
#204-456 W. Broadway
Vancouver, B.C. V5Y 1R3
604 872-1278 or toll-free 1 800 663-1278
www.bccpd.bc.ca

Workers' Compensation Appeal Tribunal's Manual of Rules, Practices and Procedures (MRPP): www.wcat.bc.ca/publications/welcome.htm

Review Division Practices and Procedures:

www.worksafebc.com/review_and_appeals/review_division/assets/pdf/RD_Practices_and_Procedures.pdf

Workers Compensation Act:

www.worksafebc.com/law_and_policy/

Rehabilitation Services and Claims Manual – (Volume 1 and 2):

www.worksafebc.com/publications/policies_and_regulations/rehabilitation_services_and_claims_manual/default.asp

The Table of Effective Dates and Application of Published Policies is located on the WCB's website:

www.worksafebc.com/publications/policies_and_regulations/rehabilitation_services_and_claims_manual/policy_effective_dates_and_application/default.asp.

Check with your local library to see if they have copies of WCB manuals. If they don't, ask if they can order the manuals for you. You can also contact the Workers' Advisers Office and ask them to send you copies of specific sections of the manuals you need.

How to reach the Workers' Advisers Office

Vancouver – Lower Mainland

#500 – 8100 Granville Avenue, Richmond, BC V6Y 3T6
Tel: 604 713-0360; Fax: 604 713-0311; Toll-free: 1 800 663-4261

Prince George Region

#208 - 1577 7th Avenue, Prince George, BC V2L 3P5
Tel: 250 565-4280; Fax: 250 565-4283; Toll-free: 1 800 263-6066

Victoria – South Vancouver Island

#403 - 3960 Quadra Street, Victoria, BC V8X 4A2
Tel: 250 952-4393; Fax: 250 952-4399; Toll-free: 1 800 661-4066

Kamloops Region

#102 – 70 Second Avenue, Kamloops, BC V2C 6W2
Tel: 250 371-3860; Fax: 250 371-3820; Toll-free: 1 800 663-6695

Nanaimo – Central Vancouver Island

#504 - 495 Dunsmuir Street, Nanaimo, BC V9R 6B9
Tel: 250 741-5504; Fax: 250 741-5516; Toll-free: 1 800 668-2117

Kelowna Region

#101 – 1726 Dolphin Avenue, Kelowna, BC V1Y 9R9
Tel: 250 717-2096; Fax: 250 717-2010; Toll-free: 1 866 881-1188

Nelson - Interior

310 Ward Street, Nelson, BC V1L 5S4
Tel: 250 354-6933; Fax: 250 354-6944; Toll-free: 1 866 354-6933

Abbotsford – Fraser Valley

#204 – 32555 Simon Avenue, Abbotsford, BC V2T 4Y2
Tel: 604 870-5488; Fax: 604 870-5494; Toll-free: 1 888 295-7781

Campbell River – North Vancouver Island

#205 –1040 Shoppers Row, Campbell River, BC V9W 2C6
Tel: 250 830-6526; Fax: 250 830-6528; Toll-free: 1 888 643-0013

Visit us at our web site: www.labour.gov.bc.ca/wab

How to reach the Employers' Advisers Office

Richmond

#620 – 8100 Granville Avenue, Richmond, BC V6Y 3T6
Tel: 604 713-0303; Fax: 604 713-0345; Toll-free: 1 800 925-2233

Prince George

#206 - 1577 7th Avenue, Prince George, BC V2L 3P5
Tel: 250 565-4285; Fax: 250 565-4288; Toll-free: 1 888 608-8882

Victoria

3960 Quadra Street, Victoria, BC V8X 4A2
Tel: 250 952-4821; Fax: 250 952-4822; Toll-free: 1 800 663-8783

Kamloops

#101 – 70 Second Avenue, Kamloops, BC V2C 6W2
Tel: 250 828-4397; Fax: 250 828-4563; Toll-free: 1 866 301-6688

Nanaimo

#404 - 495 Dunsmuir Street, Nanaimo, BC V9R 6B9
Tel: 250 741-5500; Fax: 250 741-5508; Toll-free: 1 866 827-2277

Kelowna

#102 – 1726 Dolphin Avenue, Kelowna, BC V1Y 9R9
Tel: 250 717-2050; Fax: 250 717-2051; Toll-free: 1 866 855-7575

Nelson

Opening in the Summer of 2005.
Please contact the Kelowna Office for more details.

Abbotsford

#207 – 32555 Simon Avenue, Abbotsford, BC V2T 4Y2
Tel: 604 870-5492; Fax: 604 870-5498; Toll-free: 1 866 870-5492

Visit us at our web site: www.labour.gov.bc.ca/eao

Commonly used terms and abbreviations

The following list includes some of the words and abbreviations you will find both in this kit and in the materials that you receive from the WCB. The Workers' Advisers Office has Factsheets that may help you with some of the more technical definitions in this list (the titles are listed in "Other Materials Available").

The Act: The *Workers Compensation Act*

AB Exam: A medical examination that takes place at the WCB.

aggravation: When you have been hurt on the job, and the work that you are doing makes your injury worse, either temporarily or permanently.

allow: The Review Officer or WCAT panel disagrees with the determination made on an issue covered by a decision or order under review or appeal.

appellant: The worker (or the employer) who is appealing to WCAT.

ARCON: Computerized impairment rating program that is used by the WCB to measure and calculate functional and range-of-motion impairment.

cancel: The Review Officer or WCAT panel disagrees with the determinations made on every issue covered by a decision under review or appeal and determined that the decision should be set aside without a new or changed decision being provided in its place. Cancellations are normally only ordered with respect to prevention issues.

claim: This is what the WCB calls your file for compensation.

Chief Review Officer: An officer of the WCB who is appointed to be the head of the Review Division.

DAMA (Disability Awards Medical Adviser): A WCB doctor who specializes in pension assessments.

disclosure: All of the information that is in your WCB file, including medical reports, correspondence, and other information about all your appeals.

effective date: The start date of the permanent part of your disability award (usually the day after your wage loss claim ends).

entitlement: Your rights to benefits as they are listed in the *Workers Compensation Act* or WCB policy.

evidence: All the facts, medical opinions and statements that are required in order to make a decision on your claim.

EOT: Extension of time. If you are beyond the 90 days to request a review to the Review Division or 30 days to appeal to WCAT, you may ask for an extension of time to request a review or appeal.

functional award: Your permanent disability award based upon the permanent functional impairment examination (see definition in this section). This is not a loss of earnings award.

health care benefits: Reimbursement or payment for the services of doctors, chiropractors, physiotherapists, etc., or for such things as medicine, slings, casts, splints, or special shoes.

hearing: When a Review Officer of the Review Division or the WCAT panel sits to listen to your request for review or appeal and your presentation of evidence.

implementation: When the WCB acts on, or puts into effect, a decision of the Review Division or WCAT.

issue: The question that needs to be resolved.

jurisdiction: The power, right or authority given by the *Workers Compensation Act* to interpret and apply law or policy.

LOE (loss of earnings): An additional permanent disability award (greater than a functional award) paid by the WCB, which compensates you for changing to a lower paying job or earning less money because of your disability.

MA (Medical Adviser) or UMA (Unit Medical Adviser): A WCB doctor who gives medical opinions to WCB staff.

merit: When you are entitled to favourable consideration or entitlement.

Notice of Participation or Notice to Participate: The letter you receive from the Review Division or WCAT to inform you that your employer is requesting a review or appealing either: 1) a RD decision or 2) WCB decision. You have to respond to the Notice within the time stated in the letter in order to continue to get information and respond to your employer's evidence.

objective findings: Something measured or observed by a medical doctor that proves your disability.

PFI (Permanent Functional Impairment): The assessment of the Disability Awards Medical Adviser for the decision on your PPD award.

PPD (Permanent Partial Disability): *The Workers Compensation Act* provides for payment of an award for a permanent partial disability.

panel: One or more people at the WCAT who hear and decide disputes regarding your claim.

policy: The written rules of the WCB that are binding and are used to interpret and apply the Act to individual cases. You can find these in the *Rehabilitation Services and Claims Manual, Vol. 1 and Vol. 2*.

proof: The effect of evidence, the establishment of a fact by evidence. The Act does not require absolute proof, but it does require that the WCB choose the most likely possibility.

reconsideration: To change a negative decision that was already made. If you want to apply for reconsideration you either need new evidence or show that the first decision was a mistake or evidence or law.

remedy: The benefits or action you are asking from the Review Division or WCAT, should you win.

representative: A lawyer, union member or other knowledgeable person who will help you organize your review or appeal and advocate on your behalf.

respondent: The person who is responding to your review or appeal. If you are requesting a review or appealing a decision, the respondent is your employer.

review: A new decision made by the Review Officer in a matter previously decided where the new decision confirms, varies or cancels the previous decision or order.

Review Officer: A WCB officer who works for the Review Division and makes decisions.

RS&C Manual (or RSCM) (Rehabilitation Services & Claims Manual, Volume 1 and 2): The WCB's written policies for deciding individual cases.

short term disability: See wage loss benefits.

submissions: When you present your arguments on law, policy or facts regarding your case, either in person or in writing.

TPD (Temporary Partial Disability): Section 30 of the Act allows the payment of partial wage loss benefits when you are recovering, that is, you can do some work but are unable to return to your regular job full time.

TTD (Temporary Total Disability): Section 29 of the Act provides full wage loss benefits (90 percent of net average earnings) when your condition is totally disabling but still changing.

Vice-Chair: One of the members of the WCAT who decides appeals and in case of an oral hearing is responsible for its conduct.

vocational rehabilitation: Aid to lessen or eliminate a disability caused by a work-related injury, and to help you get back to work.

wage loss benefits: Replacement for lost income. For temporary total disability, it is generally paid every two weeks.

wage rate: Your wage loss, rehabilitation and disability award benefits are based on your average earnings. The Act says you get 90 percent of your net average earnings when you are on full benefits. If your wage rate is below the minimum stated in the Act, it will be 100 percent of your average earnings. Your wage rate will not be more than WCB's maximum.

WCB (Workers' Compensation Board): A public organization with decision-making responsibilities legislated through the Act. The WCB collects money from employers to pay for disablement and death due to injury on the job and occupational disease.

WCAT (Workers' Compensation Appeal Tribunal): The WCAT is established under the Act. It is an external appeal body, independent of the Board.

Workers Compensation Act (the Act): The law of the province of B.C. that provides wage loss benefits and vocational rehabilitation, permanent partial disability awards for injuries on the job and for occupational disease. The Act also sets the rules of Occupational Health and Safety.

Common medical terms

"A"

AB	A prefix meaning 'from' or 'away'
ABDUCTION	Movement of any part away from the mid line (e.g. arm, leg)
ABRASION	An area of skin loss due to rubbing or scraping.
ABSCESS	A localized collection of pus.
AD	A prefix meaning 'to' or 'toward'
ANALGESICS	Pain killing medication
ANAESTHESIA	Loss or lack of sensation
ANKYLOSIS	Stiffness or fixation of a joint
ANTERIOR	The front of the body or extremities (may be termed ventral) Hand: is termed the palmar surface Foot: the plantar surface (or sole)
ARTHRITIS	Inflammation of a joint
ARTHRODESIS	Fusion of a joint
ARTICULATION	The junction of two or more bones
ATROPHY	Wasting
ATAXIA	Incoordination of muscular action

"B"

BILATERAL	Pertaining to both sides (e.g. both feet or both elbows)
BURSA	Sac or pouch
BURSITIS	Inflammation of a bursa

"C"

CARDIAC	To do with the heart
CATARACT	Partial or complete opacity of the lens or the eye
CELLULAR	Made up of cells
CELLULITIS	Diffuse inflammation of cellular tissue
CERVICAL	To do with the neck
CHONDROMALACIA	Roughening of a joint surface - especially the knee
COCCYDYNA	Pain in the coccyx (tailbone) or (Coccygodynia)

CONDYLE	A rounded projection such as occurs at the end of bones. (e.g. femur, humerus)
CONGENITAL	Existing at birth
CONJUNCTIVITIS	Inflammation of the conjunctiva
CONTUSION	Bruise
CORNEA	The transparent anterior portion of the eye
CREPITATION	A grating sensation
CREST	Sharp or distinct ridge on bone

"D"

DEEP	Further from the surface
DERMA	To do with the skin
DERMATITIS	Inflammation of the skin
DIPLOPIA	Double vision
DISTAL	Further away from an agreed spot
DORSIFLEXION	The back, or part corresponding to the back, as in the hand or foot
DURA	The fibrous outermost layer of the brain and spinal cord

"E"

ECTOMY	Suffix noting surgical removal, e.g. appendectomy
EDEMA	Excessive accumulation of fluid in the tissue space
EFFUSION	The outpouring of fluid into body spaces (e.g. chest, joint)
EPICONDYLE	A projection of bone just above the condyle
ERYTHEMA	Increase in severity of a disease
EXOSTOSIS	An abnormal bony outgrowth on a bone surface
EXTERNAL	On or near the outside
EXTERNAL/INTERNAL ROTATION	To rotate towards or away from the midline of the body
EXTENSION	Straightening out, e.g. joints

"F"

FACET	A small smooth surface on bone
FIBROSITIS	Inflammation of fibrous tissue
FLEXION	Bending, e.g. joints
FORAMEN	An opening, especially in bone
FRACTURE	Breaking of a bone or cartilage, may be a) compressed - one surface is driven towards another

- b) comminuted - fragmented
- c) compound - in contact with the external surface of the body
- d) complicated - associated with an injury of surrounding soft parts
- e) impacted - ends driven together

"G"

GANGLION	A cystic tumour arising from a tendon sheath or joint capsule, most commonly found on the dorsum of the wrist
GLAUCOMA	Excessive pressure within the eyeball that may produce a decrease in vision

"H"

HEMATOMA	A localized collection of blood of size large enough to produce a visible swelling
HEMORRHAGE	An escape of blood from the blood vessels
HERNIA	The protrusion of a loop of an organ or tissue, usually through an abdominal
HERNIORRHAPHY/ HERNIOPLASTY	Repair of a hernia
HERNIOTOMY	A surgical procedure to relieve an irreducible hernia
HERPES	A virus infection causing an acute inflammation of the skin or mucous membranes, characterized by groups or vesicles
HYPER	A prefix meaning 'abnormal' or 'excessive'
HYPERSENSITIVITY	A state in which there is abnormal sensitivity or susceptibility
HYPERTENSION	High blood pressure
HYPOTHENAR	A fleshy part of the palmar surfaces of the hand along the ulnar surface of the hand along the ulnar margin and fourth and fifth metacarpals

"I"

INFERIOR	Lower in relation to another part
INFRA	Prefix meaning 'below'
INTER	Prefix meaning 'between'
INTRA	Prefix meaning 'within'

INTRA-OCULAR	A foreign body within the eyeball
INVERSION	To bend inwards
IRIS	The coloured portion of the eye surrounding the pupil
ITIS	A suffix meaning 'inflammation'

"K"

KERATITIS	Inflammation of the cornea
KYPHOSIS	Curvature of the spine in a backward direction. May result from disease, trauma or poor postural habits.

"L"

LACERATION	A wound produced by tearing
LAMINECTOMY	Excision of the posterior arch of a vertebra
LATERAL	To the side, e.g. further away from the mid line of the body or part of the body
LESION	Alteration due to injury, infection etc.
LIGAMENT	A tough fibrous tissue connecting the articular ends of bones (e.g. knee)
LORDOSIS	Curvature of the spine in a forward direction
LUMBAR	The low back

"M"

MEDIAL	Towards the mid line of the body or part of the body
MENISCECTOMY	Operative removal of a cartilage
MENISCUS	A crescent shaped cartilage body (e.g. knee)
MID-LINE	Centre of the body or part
MYALGIA	Muscular pain
MYELITIS	Inflammation of the spinal cord
MYOPIA	A visual defect causing light rays to focus in front of the retina, (e.g. short sighted)
MYOSITIS	Inflammation of the muscles

"N"

NEPHRITIS	Inflammation of a kidney
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"O"

OCCLUSION	Closing or shutting
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ORBIT	The bony cavity containing the eye
OS	A bone or the mouth
OSIS	A suffix signifying state, process or diseases, (e.g. nephrosis, neurosis)
OSTEO	A prefix referring to bone
OSTEOARTHRITIS	A degenerative joint disease
OSTEOPOROSIS	Loss of calcium from bone
OTITIS	Inflammation of the ear
OTOMY	A suffix to do with surgery, although an organ is not necessarily removed, (e.g. laparotomy, herniotomy)

"P"

PALMARFLEXION	Bending the wrist or hand towards the palm
PARAESTHESIA	Abnormal sensation
PATHOLOGY	The nature of disease
PATELLA	Knee cap
PERI	A prefix meaning 'about' or 'around'
PERIOSTEUM	The fibrous covering over the surface of bone
PHLEBITIS	Inflammation of a vein
PHOTOPHOBIA	Intolerance to light with reference to the eyes
PLANTAR	To do with the sole of the foot
PLANTARFLEXION	Bending the ankle and foot downwards
PNEUMA	A prefix pertaining to the lung
PNEUMOCONIOSIS	A condition of the lung due to inhalation of mineral dust
PNEUMOTHORAX	Air in the pleural cavity
POST	After
POSTERIOR	Back of the body (sometimes referred to as dorsal)
PRONE	Lying face down
PRONATION	Turning the palm down
PROXIMAL	Nearer to the middle or some point considered as the centre of the system

"R"

RADIAL	To do with the radius or the lateral side of the forearm
REFERRED PAIN	Pain experienced in an area other than the original tissue damage
REMISSION	Subsidence of symptoms
RESIDUAL	Remaining

RETINA The light perceptive inner tissue at the back of the eye

RUPTURED OR
HERNIATED DISC Protrusion of the fibre cartilaginous mass between two vertebral bodies

"S"

SACRUM Tailbone
SCIATICA Pain down the leg from irritation of the sciatic nerve
SCLERA The tough fibrous outer layer of the eyeball which is white in colour

SCLEROSIS Thickening and hardening
SCOLIOSIS Curvature of the spinal column to the side
SILICOSIS Disease of the lungs due to inhalation of silica dust
SPONDYLOLISTHESIS Slipping forward of one vertebral body on the next immediate below. Most commonly seen at the lumbosacral junction

SPONDYLITIS Destruction of a vertebra
SUBLUXATION Partial dislocation
SUBTALAR The joint below the ankle joint on top of the heel bone

SUPERFICIAL Shallow, close to the surface
SUPERIOR Above in relation to another structure
SUPRA A prefix meaning 'above'
SUPINE Lying on the back
SUPINATION Turning the palm up
SYNDROME A number of symptoms and signs occurring together which characterize a disease or lesion
SYNOVITIS Inflammation of the synovial membrane (joints, tendon sheaths and bursa)

"T"

TENDINITIS Inflammation of a tendon
TENOSYNOVITIS Inflammation of a tendon and its sheath
TENOVAGINITIS Inflammation of a tendon sheath
THENAR EMINANCE Soft tissue prominence on the palm of the hand over the base of the thumb

THROMBOSIS Formation of a clot in the blood vessel
THORACIC To do with the chest or the spine at chest level
TRAUMATIC To do with/or caused by a wound or injury

"U"

ULNAR
UNILATERAL

To do with the ulna
To do with one side

"V"

VARICOSITY
VENTRAL
VESICLE
VOLAR

A dilated portion of a vein
To do with the anterior aspect of the body
A small sac containing fluid (e.g. blister)
To do with the same side of the wrist as the palm

REQUEST FOR DISCLOSURE

If you want a copy of your WCB claim file, send your written request (specifying your name, claim number, address, and telephone number) to the:

Workers' Compensation Board of B.C.
Disclosures Department
PO Box 5350 Stn Terminal
Vancouver BC V6B 5L5

or fax your request to 604 276-3102

The information from your claim file will be of assistance to you in preparing your appeal. You should review the file and note any errors or missing information in connection with the issue you are dealing with at appeal.

As you get closer to your hearing date, you may wish to request an update of your disclosure material.

Please note that when you send in a Request for Review form to the Review Division you will be automatically sent a paper copy of the WCB's file. Disclosure may also be available in a CD format if you select that option.

USEFUL FORMS

- ◆ Request for Disclosure
- ◆ Review Division: Request for Review
- ◆ Review Division Submission Form and Information Sheet
- ◆ Workers' Compensation Appeal Tribunal: Notice of Appeal from Review Division
- ◆ Freedom of Information and Protection of Privacy: Request for Access to Records



