

Adjudicative Advice

NEL Reconsideration vs. Re-determination

What is a NEL Reconsideration?

When an injured worker receives a Non Economic Loss (NEL) benefit, he or she has a right to appeal the NEL decision. This initial process for reviewing appeals requests is called a reconsideration.

Responsibilities

Worker:

The injured worker submits his or her reasons for the appeal to the NEL Clinical Specialist (NCS) in writing and should include the claim number; their request and their reasons for their appeal.

NEL Clinical Specialist (NCS):

- To ensure the decision is correct the NCS reviews the appeal letter and other relevant documents which have been submitted including,
 - the medical information on file (only those medical reports prior to the date of the NEL assessment will be reviewed),
 - the NEL assessment report, as well as
 - the initial rating sheet.
- If a change is made to the NEL benefit, the NCS will process the benefit change, advise workplace parties (WPP) and put a memo to file.
- If the decision is upheld, the NCS will:
 - advise all WPP of their decision; and complete an access referral memo.

What is a NEL Re-determination? - OPM Document 18-05-09

A worker is entitled to a re-determination any time after one year from the date of the decision letter only if the recent medical on file supports that the injured worker has deteriorated significantly below his or her NEL level.

Responsibilities

Worker:

Must request a re-determination in writing and this must be supported with updated medical information.

Adjudicator:

- Ensures all updated medical is on file
- Refers claim to MC or NCM to determine if the injured worker's condition has deteriorated below the NEL level, as well as the PWD (permanent worsening date)
- If condition has deteriorated, the adjudicator completes the appropriate NEL forms, completes the MMRS screen and notifies WPP of decision to allow a re-determination
- If a re-determination is not allowed (if the worker is not worse than their NEL level), the adjudicator notifies WPPs of their decision to deny a re-determination

NEL Department

Notice: This document is intended to assist WSIB decision-makers in reaching consistent decisions in similar fact situations and to supplement applicable WSIB policies and guidelines as set out in the Operational Policy Manual (OPM). This document is **not a policy** and in the event of a conflict between this document and an OPM policy or guideline, the decision-maker will rely on the latter.