

Adjudicative Advice

Operating Area — Requests For Reconsiderations Of Appeals Branch Decisions

Authority

Section 121 of the Workplace Safety and Insurance Act gives the WSIB authority to “reconsider any decision made by it and may confirm, amend, or revoke it”.

Previous WSIB policy provided that a reconsideration was to be done by the original decision-maker, but on September 1, 1997, the authority to reconsider a decision was extended to the decision-maker’s supervisor or the supervisor’s supervisor by Policy Document #01-01-07.

Procedures

The majority of reconsideration requests come from the WPPs. Some, however, are initiated by individual operating areas. Reconsideration requests should be distinguished from requests for clarification. Such requests can be made informally from operating area decision-maker to Appeals Resolution Officer (ARO) or from manager to manager. In situations where the operating area is requesting a reconsideration of an ARO decision, the following procedures should be followed:

- The Director of the operating area will advise the WPPs and their representatives (if any) by letter of the request for a reconsideration of the ARO’s decision. The letter should indicate the rationale upon which the reconsideration request is made and

should make it clear that the ARO’s decision will not be implemented pending the completion of the review by Appeals.

- A memo will be sent from the operating area Director to the Director of Appeals identifying the decision in question, the perceived error and the request for a reconsideration of the decision.
- The Director of Appeals will have the decision reviewed by the original ARO. If the decision is not altered after that review, the Director of Appeals will review the decision.
- Where a change in the decision is contemplated either by the original ARO or by the Director, an opportunity will be given to the WPPs and representatives (if any) to make further submissions.
- Following completion of the reconsideration review, the WPPs, the representatives (if any) and the Director of the operating area will be notified of the outcome in writing with reasons.

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.