



WSIB Claims Management Update

May 2013

Flash NEWSLETTER

Modernization of the WSIB's Appeals Program Update #2

In our August 2012 Flash Newsletter, we provided an overview of the WSIB's proposed changes to the appeals process within the Appeals Services Division (ASD). The new appeals process was approved and implemented effective February 1, 2013. The process involves addressing the significant backlog of appeals currently at the WSIB and intake of new appeals.

The new process has been designed similar to the WSIAT process but with a greater a number of appeals to be dealt with by way of written hearings rather than oral. The new process involved a two-step process when an appeal is registered by a workplace party. The first step is submitting an Intent to Object Form (IOF) to meet the appeal time limit. This form is available on the WSIB website. Once the objection is received, and access to the claim file sent, when the appellant is ready to proceed, the second step requires them to submit an Appeal Readiness Form (ARF) with their supporting documentation and submission.

As the employer, you will continue to receive the Participant Form when the IOF is received by the WSIB. Once the Appellant confirms they are ready to proceed by submitting the ARF, the Respondent Form (RF) will be issued to the employer allowing 30 business days to provide a written submission. .

The WSIB has greatly narrowed the circumstances when an oral hearing will be scheduled. It is expected that this will allow the WSIB to process a greater number of appeals by reducing the scheduling time, as well as costs associated with a hearing. There are only a limited number of issues that will be dealt with by oral hearing which are listed below:

- Initial Entitlement (generally two party) – chance event and disablements where there is contradictory information and/or testimony would add to the information already in the case material
- Complex Occupational Disease
- Complex Non – Organic Conditions
- Traumatic Mental Stress
- Job Suitability where there is contradictory information and/or testimony would add to the information already in the case material
- Co-operation in Return to Work

- Co-operation in Work Transition (Labour Market Re-entry)
- Work Transition Plans
- Re-employment (where the threshold for re-employment has been met)
- LOE Lock-in (unless straight-forward and no factual dispute)
- Recurrence more than 2 years from date of injury/illness
- Survivor Benefits – complex determinations of who is a spouse/dependent

For a full listing of hearing methods of resolution and to the ASD policy and procedures, click on the link: <http://www.wsib.on.ca/files/Content/AppealsAppealsPP/AppealsP&P.pdf>

Still, the WSIB has a significant backlog of appeals, somewhere between 5,000 and 6,000 cases. Notices were mailed the first week of January 2013 identifying the first group of appellants whether they were ready to proceed with an enclosed “Transition Appeal Readiness Form” (TARF). Appellants were allowed until April 10, 2013 to respond which has now been extended to July 10, 2013.

The second batch of notifications was to be sent early March 2013 but was delayed until April 19, 2013. Appellants in this group have until October 21, 2013 to submit the TARF. When submitting the completed TARF, appellants must provide all of their information to support their appeal and specify whether they request an oral or written hearing. Respondents have 30 days to make a written submission on both issues. The WSIB is mailing the documents along with the Response form which reduces the 30 day time limit. All arguments on the substantive issues and method of hearing must be provided when the submission is made. This limited deadline can be challenging for Respondents to submit their information within the set time limit.

Key Observations and What you should be Aware of

- The WSIB is strictly adhering to appeal time limits for decisions – 6 months in adjudicative decisions. Please check your mail regularly and forward all correspondence to your SBCI claims manager as soon as possible to ensure that time-sensitive issues are not missed.
- The Return to Work and Re-employment Obligations decisions has a time limit of 30 days. Examples are work suitability rulings, Work Transition Plans, and Re-employment breach. Notify your SBCI claims manager as soon as possible and forward the decision letter.
- We are observing a high volume of TARF and ARF being submitted by worker representatives, and in the majority of cases an oral hearing is being requested.
- Once the TARF & ARF is received by the ASD, a response form is sent to the respondent (school board or representative) who then has 30 days by the date specified to make a written submission with all the information. The WSIB is mailing forms and packages which can take up to a week or more in some cases to receive. The response and

submission is time sensitive. All relevant information must be submitted with the Response Form. For school boards, it is critical that all information for the appeal be available on short notice when requested from your SBCI claims manager. Examples of information may include witness statements, H&S investigation or inspection reports, diagrams, pictures, etc.

- If an oral hearing is not granted, and this is not appealable, parties then have 21 days to make further submissions. Again, it is critical that when contacted by your SBCI Claims Manager to respond to their requests for information. If you are away on vacation, ensure there is a designated contact.
- If an oral hearing is granted by the Appeals Manager, it will be scheduled within 90 days. Parties must be available, including the employer contact.
- In both written and oral hearings, once the case is assigned to the ARO or the hearing scheduled, a decision will be issued within 30 days of the hearing date or the latest date when submissions are received.
- It is crucial for school boards to be thorough in their investigations and obtain the supervisor's and witness statements whenever possible. Even a straightforward health care claim can become lost time at a future date. All information and as much detail about the accident is vital.

As anticipated, SBCI has received an influx of appeals cases over the past few months and ensured resources are available. Your SBCI Claims Manager will provide written submissions on behalf of the school board member and this may result in your WSIB Claims Manager requesting information to assist with the submission and your assistance to provide documentation quickly.

SBCI is monitoring this initiative closely and taking steps to ensure our member-boards are protected and their interests are represented.

We will continue to monitor and update you on the developments in the ASB and lobby on behalf of SBCI school board members.