Title: Board and Corporate Administration
Subject: Reconsiderations
Effective Date: Requests for Reconsideration Received on or after January 1, 2020

A. POLICY PURPOSE

The Workers Compensation Act provides the WCB with broad discretionary authority to reconsider any matter it has dealt with and any decision it has made. This includes the ability to reconsider any decision that affects a worker, employer or other party at the request of the affected party, and to determine the process for doing so.

This policy provides the framework for these types of internal reconsiderations, including the principles governing reconsiderations and the basic features of the reconsideration process.

B. POLICY

1. DEFINITIONS AND SCOPE

This policy applies to all decisions made by the WCB which affect workers, employers or anybody with a direct interest in a decision. Decisions of a *general* legislative, policy or administrative nature are not subject to this policy. Similarly, the policy does not cover decisions of an incidental nature that occur in the course of dealing with a specific case. Examples of this include delays in making an initial decision or in a particular method chosen to reach an initial decision. The Fair Practices Office exists to deal with these and similar situations.

In this policy, **"decision"** means decisions made on specific matters, such as claims adjudication, assessment rates and administrative penalties, made "at the primary level."

The terms **"primary-level" and "primary decision-maker,"** refer to the initial corporate decision-making body which makes and communicates the decision (Compensation Services, Assessment Services, etc.).

2. PRINCIPLES OF RECONSIDERATION

The WCB's reconsideration activities are guided by the following principles:

- The principles of natural justice are adhered to, so that reconsideration processes are characterized by impartiality, objectivity and fairness.
- All reconsideration decisions are based on the merits and justice of each particular case.
- Those seeking reconsideration of a decision have the right to present evidence and arguments, to be informed of new issues or new information as it arises, and to respond to information provided by other parties within reasonable timeframes.
- Sufficient information is gathered on which to make an informed decision.
- Communications regarding processes, decisions and all other matters relating to a reconsideration are characterized by clarity and transparency.

3. RECONSIDERATION PROCESS

- Parties seeking reconsideration of a decision must first contact the primary decision- maker before proceeding with a formal request for reconsideration. This promotes resolution of the issue prior to pursuing a formal reconsideration, and helps ensure that all pertinent information needed to make the decision is on file and the reasons for the decision are understood by all parties.
- A party seeking a reconsideration, or their delegated agent, must submit a written request for reconsideration to the Review Office, the single point of registration for all reconsideration requests.
- Reconsideration consists of a review of all the pertinent information, including new information submitted in the course of a review.
- Reconsiderations are performed by senior WCB staff with expertise in the area, separate and apart from the primary decision-maker.
- Reconsiderations are conducted by written communication in which the parties have the opportunity to present information and to respond to information submitted.
- The sharing of information with the parties participating in a review under this policy is conducted in accordance with the *Act* as well as Policy 21.50.10, *Disclosure of File Information* and Policy 21.50.40, *Disclosure of Information – Employer Access.* The WCB also adheres to rules set out in *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.
- Until a decision is made on reconsideration, the original primary decision stands as the decision of record.
- If a reconsideration decision is perceived to be unclear, contains an obvious error (e.g., a grammatical or clerical error), or is missing a piece of relevant information, parties to a decision have the right to seek clarification. Nothing limits the WCB from issuing clarifications or addenda on its own in order to complete the decision, resolve disputes and promote finality of decisions.
- Parties can only ask for a second review of a formal reconsideration decision when new material evidence directly relevant to the decision arises after the decision is made.
- Parties who are dissatisfied with a reconsideration decision may pursue the next level of appeal, which is the external Appeal Commission. The reconsideration must be completed and the decision communicated in writing before the matter can proceed to the Appeal Commission. A decision cannot be under reconsideration by the WCB and before the Appeal Commission at the same time. However, the Appeal Commission can return an issue back to the WCB for reconsideration.
- A request for reconsideration may be formally withdrawn, in writing, at any time before the reconsideration is complete. In rare circumstances, the request for withdrawal can be refused if doing so would leave a decision in place that contradicts the *Act*, regulations or policies of the WCB.

C. REFERENCES

The Workers Compensation Act, in particular Sections 19.1, 49.3, 60(3), 60.1, 86(3) and 109.7
The Freedom of Information and Protection of Privacy Act
Policy 21.50.10, *Disclosure of File Information*
Policy 21.50.40, *Disclosure of Information – Employer Access*

History*:*

1. Policy 20.10, *Reconsiderations*, established by Board Order No. 21/15 on May 26, 2015, effective July 1, 2015.
2. Policy 21.00, Review Office and Policy 21.05.10, Reconsideration of Assessment-Related Decisions were both rescinded by Board Order No. 21/15 on May 26, 2015.
3. Policy amended by Board Order 39/19 on November 28, 2019, to reflect a single-point of registration for all reconsiderations.
4. Minor formatting changes were made to the policy, September 2020.