

Section	Policy
20	21.10.40

Section Title: Board and Corporate Administration - Board Administration  
Subject: Expenses for Attendance at Appeal Hearings  
Effective Date: July 1, 2000

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## **A. POLICY PURPOSE**

This policy outlines who is eligible for reimbursement of wages and expenses incurred to attend an oral hearing. It further details the types and levels of expenses which will be reimbursed.

## **B. POLICY**

1. The WCB will reimburse certain individuals for lost wages and actual, reasonable, and necessary expenses occasioned by the need to attend an oral hearing. The need to attend an oral hearing is determined by the Chief Appeal Commissioner or an appeal panel.
2. Workers, dependants, and witnesses appearing at the request of the Chief Appeal Commissioner or an appeal panel will be eligible under this policy. Only one dependant of a deceased worker will be eligible for reimbursement of lost wages and expenses. If a worker is unable to travel alone due to the work-related medical condition, lost wages and the actual, reasonable, and necessary expenses of a companion will also be reimbursed.
3. Expenses will normally be reimbursed at the same rate as WCB employees. Current rates are reflected on the WCB website at <https://www.wcb.mb.ca/mileage-and-expense-rates>. If required by medical or other special circumstances, individuals may be reimbursed for expenses above these established levels. The rates will be adjusted periodically in accordance with changes in rates paid to WCB employees.
4. Eligible expenses include:

### a) Transportation

Travel expenses will not normally exceed the cost required to:

- i. travel within the boundaries of Manitoba. Expenses for travel outside the boundaries of the province may be reimbursed in special circumstances at the discretion of the Chief Appeal Commissioner;
- ii. take the most direct route available to the place of the oral hearing; and
- iii. use the most economical means of transportation available.

The WCB will reimburse the travel expenses of individuals travelling from within the province to attend an oral hearing.

### b) Accommodation

Eligible accommodation expenses will not normally exceed the cost of WCB-approved lodging.

A list of WCB-approved lodging is contained in Appendix A. If another person provides or pays for all or part of an individual's lodging, the WCB may reduce the accommodation expense as appropriate.

## c) Meals

The actual costs of meals will be paid, subject to the maximum levels outlined on the WCB website at <https://www.wcb.mb.ca/mileage-and-expense-rates> and

## d) Dependant care

Any additional child or other dependant care costs incurred as a result of the need to attend an oral hearing will be reimbursed. Generally, dependant care costs provided by a relative will not be reimbursed unless the relative would normally be paid for such services.

5. Subpoenaed witnesses may claim actual lost wages occasioned by attendance at an oral hearing as an eligible expense. This expense will be reimbursed upon verification from the subpoenaed witness's employer. Workers and dependants will be reimbursed for lost wages occasioned by attendance at an oral hearing.
6. Expert witnesses appearing at the request of the Chief Appeal Commissioner or an appeal panel will be reimbursed on the basis of the fee structure developed by their professional association or reasonable equivalent.
7. Worker or employer representatives appearing before an appeal panel will not be paid fees or expenses by the WCB.
8. Under *The Workers Compensation Act*, all expenditures incurred as a result of this policy will be considered an operating cost of the Appeal Commission and charged to the Accident Fund.

**C. REFERENCES**

*The Workers Compensation Act*, section 60.6

Appeal Commission Rules of Procedure

**History:**

1. Policy 21.10.40 established by Board Order 31/90, effective retroactive to October 1, 1990 to replace and rescind Board Orders 131/82, 173/82, 225/82, 13/83, 55/83, 56/83, 131/83, 60/85, 72/86, 21/87, 184/88, 40/89, 41/89 and 149/89.
2. Policy amended December 23, 1994, to correct references to the Appeal Commission (formerly Board of Commissioners).
3. Policy amended and renamed by Board Order 11/98, effective August 1, 1998. The revised policy clarifies that expenses will only be reimbursed where an oral hearing is deemed necessary by the Chief Appeal Commissioner or an appeal panel. Also clarified that dependants are eligible for expenses and subpoenaed witnesses may be reimbursed lost wages.
4. Policy amended by Board Order 15/00, effective July 1, 2000. The revised policy clarifies that a claimant's lost wages will be reimbursed where an oral hearing is deemed necessary by the Chief Appeal Commissioner or an appeal panel.
5. Minor formatting and grammatical changes were made to the policy, June 27, 2012.
6. Policy amended March 2020 to provide a 5 year meal and kilometre rate history in Appendix A. The history section was also reduced by removing the biannual and quarterly indexing entries.
7. Minor formatting and grammatical changes were made to the policy, September 2020.
8. Manitoba Regulation 279/91 was repealed on January 1, 2022 and removed from the reference section. This regulation was replaced with rules of procedure established by the Appeal Commission.
9. The list of WCB-approved lodging was updated to reflect the temporary closure of an approved hotel.

10. In December 2022, minor grammar changes were made to the policy and administrative guidelines.
11. In March 2023, the policy was updated to refer readers to the WCB Intranet for current rates.

#### **D. ADMINISTRATIVE GUIDELINES**

1. The Registrar of the Appeal Commission recommends to the Chief Appeal Commissioner the type of hearing most appropriate to consider an appeal. The Chief Appeal Commissioner or appeal panel will determine the need for an oral hearing rather than a non-oral (paper review) hearing.
  - a) If the Chief Appeal Commissioner or appeal panel determine that an oral hearing is necessary to consider the matter, the Registrar will advise the injured worker or dependant in writing that he or she is eligible for actual reasonable and necessary expenses.
  - b) If the Chief Appeal Commissioner or appeal panel decide that an oral hearing is not necessary, the Registrar notifies the injured worker or dependant of this decision. The injured worker or dependant may still request that an oral hearing be held. If the Chief Appeal Commissioner or appeal panel still consider that an oral hearing is not necessary but is willing to grant the worker or dependant's request, any expenses incurred to attend the oral hearing will be the responsibility of the worker or dependant, and will not be paid by the WCB. The Registrar will confirm this in writing with the worker or dependant prior to scheduling the hearing.
2. The Registrar's office will attempt to schedule hearings to minimize expenses incurred. This includes seeking possible alternatives to acquire witness testimony if it would prevent the need to travel or incur lost wages. Some possible alternatives include video presentation, phone or video conferencing.
3. When an individual is required to stay overnight, the individual will be reimbursed the cost of a single occupancy regular room at a WCB-approved hotel as verified by a receipt. The individual may make alternate accommodation arrangements but will be reimbursed to a maximum of the cost of a single occupancy regular room at an approved hotel.
4. If the cost of lodging is partially or fully paid by another person, the WCB may reduce the amount it pays to the injured worker, dependant or witness to reflect the cost paid by that individual. If an individual stays at the home of a friend or relative, he or she will be reimbursed one-half of the cost of the approved hotel accommodation. If an individual chooses alternative accommodations, the combined transportation and accommodation expense reimbursed will not exceed the maximum cost that would be incurred if the person had stayed at the lodgings identified by the WCB.
5. Practicality, expedience and medical necessity will be considered when determining the most efficient type of transportation. As well, transportation expenses will be paid based on the most direct route to the oral hearing.
6. Where the individual would be required to travel from outside the province, the Registrar will consult the Chief Appeal Commissioner regarding whether the full expenses should be paid, and will advise the individual prior to scheduling the hearing.
7. "Special Circumstances" in which expenses beyond the provincial boundary should be reimbursed include:
  - the worker has relocated because it was necessary to find suitable work (and only as far as necessary to find suitable work);
  - the worker's original place of residence was outside the province at the time of the injury (e.g.,

- the claim was made under the terms of the interjurisdictional agreement);
- a dependant of a deceased worker has moved in accordance with custody conditions; or
  - the Appeal Commission has legally required the individual to attend (e.g., a subpoenaed witness).
  - other circumstances where the Chief Appeal Commissioner determines that expenses should be reimbursed.
8. The mileage and meal allowance levels will be taken from the most current collective agreement between the WCB and CUPE Local 1063. The rates for this policy will be updated by the WCB when these amounts are recalculated.
  9. Individuals may be reimbursed for expenses above the established levels if the additional expenses are due to medical or special circumstances and are approved by the Registrar. For example, if a person must use a more expensive form of transportation to accommodate a wheelchair.
  10. Dependant care includes caring for family members with an infirmity or disability.
  11. Incremental dependant care costs will be paid based on receipts supplied by the individual. The receipt should contain, at minimum, the following information: date of care, costs of care, and name of care provider. The costs of dependant care provided by a relative may be reimbursed if the claimant is able to substantiate that the relative would normally be paid for this service. The claimant may substantiate this by providing documentation that the relative is a domestic worker under *The Workers Compensation Act* or the relative's name appears on Canada Revenue Agency's form T778, Child Care Expenses Deduction. The claimant may also provide other receipts that indicate paying the relative for care is a normal practice.
  12. If the worker is unable to travel alone due to a medical condition, the reimbursement of lost wages and expenses will be extended to one individual who acts as a companion to the worker. The reimbursement of lost wages and expenses will be according to the same criteria used for workers, dependants and witnesses.
  13. A worker, dependant or subpoenaed witness may be reimbursed for actual gross wages lost as a result of leaving work to attend the oral hearing. The Registrar, in consultation with the Chief Appeal Commissioner, will determine the amount of lost wages. Where the individual is an employee, verification of the actual wages lost from the individual's employer may be required. Where the person is self-employed, the Registrar, in consultation with the Chief Appeal Commissioner, will determine a reasonable estimate of lost earnings. Reimbursement for lost wages is not subject to the WCB maximum insurable earnings amount and the recipient is responsible for any resulting income tax implications.
  14. The Registrar, in consultation with the Chief Appeal Commissioner, will determine a reasonable fee equivalent for an expert witness when a professional fee structure does not exist.

**APPENDIX A**

1. WCB-Approved Lodging List

Delta Hotels by Marriott Winnipeg