

## **WCB Policy 21.50, Information Protection, Access and Disclosure**

### **Administrative Guidelines**

*These guidelines provide additional guidance to staff and inform stakeholders on key components of the policy.*

All requests for claim file information are to be made through the WCB's **File Access Department**. Email: [fileaccess@wcb.mb.ca](mailto:fileaccess@wcb.mb.ca)

#### **1. COLLECTION OF INFORMATION FOR CLAIMS ADJUDICATION/MANAGEMENT**

Under *The Workers Compensation Act* (the Act), *The Freedom of Information and Protection of Privacy Act* (FIPPA) and *The Personal Health Information Act* (PHIA), the WCB may collect personal information, including personal health information, for the purpose of adjudicating and managing claims. Information is collected from workers, medical professionals, employers and others. Collection must be limited to that which is necessary to accomplish the purpose for which it is being collected.

When the WCB collects workers' personal and personal health information for this purpose, it takes steps to minimize the over-collection of this information, particularly when requesting information from medical providers or when extracting information from medical reports. It does so by:

- Identifying the information which is relevant and necessary to adjudicate the worker's claim (i.e., to determine claim eligibility and entitlements); and
- Removing and redacting irrelevant or unnecessary personal information and personal health information, using its File Content and Redaction Process.

#### **2. EMPLOYER ACCESS TO CLAIM FILE INFORMATION**

##### **(a) Claim Information Available to Employers Prior to Reconsideration or Appeal**

As stated in the policy, employers are entitled to disclosure of some information on the worker's claim file outside of the reconsideration or appeal process. However, disclosure is limited to that which the WCB decides is necessary for employers to fulfil their obligations under the Act. This includes information regarding whether the claim has been accepted or not, and pertinent information that flows from this decision such as claim costs. Such information is available to employers through the WCB's *Claims Online* system, as well as from the WCB directly. The employer is also entitled to the WCB's reasons for accepting or denying a claim.

The WCB will also disclose claim file information to employers that facilitates the worker's return to work, including information about:

- **The general nature of the worker's injury (e.g., body part) and likely prognosis** (i.e., when the worker may be expected back to work, and what the worker is capable of doing once back at work).
- **Medical restrictions arising from the injury and the worker's physical capabilities** (i.e., for the purpose of determining suitable and safe return to work).

As outlined in the policy, additional claim file information is available to employers during the reconsideration and appeal process. The process by which employers can obtain claim file information for the purpose of participating in a reconsideration or appeal of a claims decision is described below.

## **(b) Disclosure During the Reconsideration or Appeal Process**

### **(i) Employers who are parties are entitled to relevant information upon request**

An employer who is a party to a request for reconsideration or an appeal of a claims decision is entitled to access information on a worker's claim file upon request. **However, the WCB will only provide the employer with claim file information relevant to the issues under reconsideration or appeal.**

Employers become parties to a reconsideration of a claims decision by submitting a written request for reconsideration to the WCB, or by submitting a written statement to the WCB indicating their intent to participate in a request for reconsideration initiated by the worker.

Employers become parties to an appeal of a claims decision by filing an application to appeal with the Appeal Commission or by submitting a written statement to the Appeal Commission indicating their intent to participate in an appeal initiated by the worker.

At the same time they request reconsideration or appeal of a claims decision, or signal their intention to participate in a worker's reconsideration or appeal, employers can request access to claim file information to allow them to fully participate in the reconsideration or appeal process.

### **(ii) Process for obtaining disclosure**

When an employer who is a party to a request for reconsideration or appeal of a claims decision requests access to claim file information, the WCB reviews the claim file information and removes any information it considers irrelevant to the issues under reconsideration or appeal.

The WCB then notifies the worker of the employer's request to access claim file information, and sends the worker a copy of information that the WCB intends to disclose to the employer.

Once notified, the worker has 10 business days to provide consent or written objection to the release of information. Objections to release of information must be specific; a general refusal will not be considered sufficient. The worker must identify the specific documents or the portions of a document that they do not want released and explain why they should not be released.

If the worker fails to reply within 10 business days the Board will release the information it considers relevant to the employer. Reasonable effort will be made to contact the worker prior to such release.

If the worker provides written objections within the 10 day period, the WCB will send a letter to the worker acknowledging the objections. At the same time, the WCB will send the employer a letter advising them that an objection has been made and the WCB is in the process of considering that objection.

Upon receipt of the worker's objections, the WCB will make a final decision on whether to disclose the information to the employer. It will then notify both the worker and the employer of its decision, as well as their right to ask the Chief Appeal Commissioner (CAC) to review the WCB's disclosure decision. The parties have 10 business days from the date of notification to request a review.

If either party files a request for review within the 10 day period, the WCB will not release the information until a decision has been made by the CAC regarding disclosure.

If neither party requests a review by the CAC within the 10 day period, the WCB will release the information to the employer.

If, during an appeal hearing, the panel hearing the matter decides that information that has not been disclosed is relevant to an issue under appeal, the Appeal Commission will disclose the information to the employer.

### **3. WORKER OR EMPLOYER AGENTS (AUTHORIZED REPRESENTATIVES)**

The WCB requires written authorization from a worker or an employer to release file information to their agent. In the case of employers, this means a signed and dated letter on company letterhead containing the name and contact information of the agent(s). This authorization is valid for two years. Employers wishing to cancel this authorization must do so in writing.

Workers sign authorization forms, or their equivalent, to designate an agent. These too are valid for two years.

### **4. FEES FOR EXTRA COPIES OF FILES**

One copy of claim file documents deemed relevant is provided at no charge. Additional copies have a minimum charge of \$25 per file, but the WCB may charge additional amounts if lengthy processing is required.