

FREQUENTLY ASKED QUESTIONS

Who are the people in the Office of the Worker Advisor?

The Office of the Worker Advisor includes an intake officer, and lawyer/researchers who are very familiar with the Workers' Compensation process. They can help explain the paper work and forms you need to complete, and represent you at the reconsideration and/or appeal stage.

What can I appeal?

You need to have a decision from WCB before you can launch either an internal reconsideration or an appeal. Decisions are sent to you by mail in the form of a letter.

How is the time line for reconsideration or appeal measured?

The date of the decision letter starts the time period for filing a request for reconsideration or appeal.

- You have 90 days from the decision date to file a Request for Internal Reconsideration;
- You have 30 days to file a Notice of Appeal of an Internal Reconsideration decision.

Can I get a copy of my file to help me prepare?

Yes, you can ask WCB to provide a copy of your file to you and one to your representative (yourself, the Worker Advisor, or you can hire your own lawyer). WCB has a form for requesting your file:

Form A: http://www.wcb.pe.ca/DocumentManagement/Document/frm_workersrequestforreleaseoffileforma.pdf

What is a WCAT hearing like? Is it a court?

WCAT hearings are informal, and non-adversarial. The parties usually sit at a large table. Length of hearings vary depending on how complex the issues are. However, most are heard in less than two hours.

Appeals are heard by an impartial three-person panel made up of a Chair, a worker representative and an employer representative. The panel does not work for WCB.

The process begins with introductions of all parties. The Chair explains the hearing process and responsibilities of the Appeal Tribunal. Your representative and the WCB lawyer then take turns presenting their case (submitted in writing before the hearing).

New evidence is not considered at the hearing, so it is very rare for witnesses to be called to testify.

Can I bring a friend or relative to support me at the hearing?

You may have someone like a friend or family member attend the hearing with you in addition to your representative. Additional observers need to ask permission of the Chair.

Can my employer appeal a WCB decision?

Your employer can appeal a decision made at any level by the WCB. Their time limits are the same as yours. If your employer appeals a decision on your claim, you will be notified. You have the right to challenge your employer's appeal. As with your own appeal, the Worker Advisor can help you.

OWA OFFICE OF THE WORKER ADVISOR

Knowledgeable • Confidential • No Charge

Helping you through the Reconsideration or Appeal of your WCB claim

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WHAT IS THE OFFICE OF THE WORKER ADVISOR?

- A free service available to all injured workers (or their families)
- Independent of WCB
- Source of information and guidance on your options if you are not satisfied with the decisions relating to your claim.
- Support for injured workers seeking internal reconsideration
- Representation of workers appealing to the Workers Compensation Appeal Tribunal

WHERE YOU CAN GET ANSWERS FOR YOUR QUESTIONS:

How does the appeal process work?

When can I appeal?

Should I appeal?

How do I appeal?

The Office of the Worker Advisor can also help to explain terms such as:

- Internal Reconsideration
- Dismissed/dismissal
- New Evidence
- Rehabilitation/Retraining
- Impairment
- Occupational Disease
- Medical Aid
- Survivor Benefits

DECISION LEVELS FOR WORKER CLAIMS



1. If you do not agree with a decision about your claim, you are encouraged to speak with your WCB claim manager to see if your concerns can be resolved. If not, you can contact the Service Quality Coordinator at WCB (902-368-6044) who can review how your file has been handled to date. If you would like to have help or support in these discussions, a Worker Advisor may be available to assist.
2. If you are still not satisfied, you may request an Internal Reconsideration (an internal process) within 90 days of the date of the decision. To do so, complete the Request For Internal Reconsideration form at www.wcb.pe.ca/Workers/Appeals and submit it to WCB. If you would like help completing the form, the Office of the Worker Advisor can assist.
3. If you disagree with a decision made in the Internal Reconsideration process, you can file

an appeal with the Workers' Compensation Appeal Tribunal (WCAT) within 30 days of the Internal Reconsideration decision. After filing the Notice of Appeal, a written submission to WCAT must be filed setting out why you are appealing, what mistakes you think decision-makers made, and what remedy you are seeking. The Office of the Worker Advisor will consider the evidence on your file and the decision and advise you on whether there is an argument that can be made. The Office of the Worker Advisor has the discretion to decline to represent matters that do not have any likelihood of success.

4. Typically, the WCAT decision is the final decision on a matter. However, where WCAT made a legal error, a worker may appeal the WCAT decision to the PEI Court of Appeal. The Office of the Worker Advisor can review whether this is an option for you. The Worker Advisor may, in its discretion, agree to represent you at the Court of Appeal if there is a reasonable likelihood of success.

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