

## APPEALING TO WSIB

### Decisions Made Before January 1, 1998

Any WSIB decision made before January 1, 1998 had to be appealed by June 30, 1998.

### Decisions Made on or After January 1, 1998

- **Return to Work or Labour Market Re-entry Decisions:** You have **30 days** from the date of the WSIB decision to appeal a return to work or labour market re-entry decision.
- **Access to Worker's File:** You have **21 days** to object to the release of medical information to your employer. See OWA Fact Sheet 4 called "Employers and Claims".
- **All Other Decisions:** You have **6 months** from the date of the decision to appeal all other WSIB decisions.

The first Workplace Safety and Insurance Board (WSIB) decision is made at the WSIB operating level. If you disagree with that decision, you can file an appeal to the WSIB Appeals Branch within the **time limits** set out above. If you discover that you have missed an appeals time limit, you should obtain help from a qualified representative as soon as possible. WSIB has the power to extend time limits. For information on appealing WSIB decisions after the time limits have passed, see OWA Fact Sheet 27 called "Extensions of Time Limits at WSIB".

### Who Can Appeal a WSIB Decision?

You can appeal a WSIB decision if you are:

- an injured worker or an injured worker's employer,
- the spouse (which now includes same-sex partners), dependant, or estate of a deceased injured worker.

### What Do You Do First?

Within the **time limits**, write to the person at WSIB who made the decision you disagree with and advise them of your intent to appeal. This is called an ***Intent to Appeal*** letter. You can write your own ***Intent to Appeal*** letter or you can complete Parts 1 and 2 of the ***Intent to Appeal to WSIB*** form located in the OWA Workers' Information Kit called ***Appealing WSIB Decisions***. It is a good idea to send this letter by fax or registered mail, thereby ensuring you have proof of having met the **time limit** by way of receipt. Even if you are not sure whether you agree with the decision, it is wise to file your objection right away, so that you don't lose your right to appeal.

Parts 1 and 2 of the ***Intent to Appeal to WSIB*** form should be completed if you need more time to decide whether you want to appeal, obtain additional medical evidence, find a representative, or for any reason you do not want to proceed with your appeal right away. Upon receipt of your form, WSIB will confirm, in writing, that you have met the time limits and request, also, that you notify them when you are ready to proceed with your objection.

### Proceeding With Your Objection Right Away

The intent to appeal a WSIB decision should be communicated to WSIB in writing and within the proper **time limits**. Your ***Intent to Appeal*** letter should state that you are ready to proceed with your objection right away, and should include an outline of your reasons for objecting to the WSIB decision. If you prefer **not** to write your own letter, you can complete Parts 1 and 3 of the ***Intent to Appeal to WSIB*** form. Once WSIB receives your letter or form, they will send you a copy of your claim file and an official objection form.

### The Objection Form

The WSIB Objection Form is the official document used to launch an appeal at the Appeals Resolution Officer (ARO) level. This form contains basic information about the decision under appeal and the expected results. There is no time limit for submitting the Objection Form to WSIB. WSIB normally sends your claim file and the Objection Form to you after they receive your intent to appeal letter or form. For information on how to read your claim file, see OWA Fact Sheet 5 called "Your Claim File and How to Get It".

## What Do You Do Next?

If you will be asking someone else to represent you, **do not** send the Objection Form to WSIB. If you will be representing yourself, your Objection Form should include the following information:

- the reasons why you feel the decision is wrong,
- any new information that you have discovered since the decision was made,
- a list of the additional WSIB benefits and services you are expecting,
- if you need an interpreter at your hearing, you should check the box marked “other” and complete the section of the Objection Form called “language”.

You also need to provide any additional medical documents that you may have along with your Objection Form to WSIB. When completing the Objection Form, you must either agree to the release of relevant health care documents to your employer or provide reasons for objecting to the release of these documents to your employer. See OWA Fact Sheet 4 called “Employers and Claims”. Make sure you keep a copy of the completed Objection Form and any additional medical documents for your own records.

## Who Decides Your Appeal?

The original WSIB decision-maker will review your Objection Form, including any new issues that you may have raised, and decide whether to reconsider the decision. Any additional medical information you have provided will usually be sent to a WSIB doctor for review. This process can take some time. If you have not heard from WSIB within **6 weeks** of sending your Objection Form, you should contact your adjudicator for information regarding the status of your appeal. If the original decision-maker does not change the decision, your file will be referred to an Appeals Resolution Officer (ARO) at the Appeals Branch.

## How Does the Appeal Process Work?

There are a number of different ways in which WSIB may decide your appeal:

**60-Day Decision Option:** If your case is fairly simple, you may wish to choose the WSIB 60-Day Decision Option. An ARO will issue a decision within 60 days based on the information in your claim file, including any other information that you or your employer submit in writing. You will not have an oral hearing.

**Mediation:** An ARO will contact you and your employer to discuss the issues in dispute and to find the best way to settle these issues. If necessary, the ARO will gather more information about your dispute. If you and your employer are able to settle the dispute, the ARO will prepare an agreement and confirm, in writing, that it complies with the *Workplace Safety and Insurance Act* and WSIB Policy. The agreement is then considered a final decision of WSIB.

**Hearing:** If you and your employer are unable to reach an agreement or your employer is not participating, the ARO will either decide the issue(s) on the basis of written submissions, or schedule your case for an oral in-person hearing. For more information on presenting your case at an oral hearing, see OWA Fact Sheet 29 called “Hearing Tips”. For suggestions on written appeals, see OWA Fact Sheet 30 called “Submissions”.

## How Do You Appeal a Final WSIB Decision?

Final WSIB decisions are appealed to the Workplace Safety and Insurance Appeals Tribunal (WSIAT). See OWA Fact Sheet 25 called “Appealing to WSIAT”.

### IMPORTANT INFORMATION

There are time limits for appealing WSIB decisions. If you wish to appeal a decision, contact a qualified representative as soon as possible. For more information on time limits, see OWA Fact Sheets 24 and 25 called “Appealing to WSIB” and “Appealing to WSIAT”.

**This Fact Sheet contains general information only. It is not a legal document. To see what the law says, you should look at the Workplace Safety and Insurance Act and WSIB policies. If you require help and do not have a union to assist you, contact the Office of the Worker Adviser:**

- Our toll free telephone number is 1-800-435-8980 (English) or 1-800-661-6365 (French)
- or visit our website at <http://www.owa.gov.on.ca>

*Cette feuille-info est aussi disponible en français*

