

## EXTENSIONS OF TIME LIMITS AT WSIB

### What Time Limits Apply?

Under the *Workplace Safety and Insurance Act*, the **time limit** to appeal a decision by the operating level of the Workplace Safety and Insurance Board (WSIB) to their Appeals Branch can be either **30 days** or **six months**, depending on the type of decision. For more information, see OWA Fact Sheet 24 called “Appealing to WSIB”.

If you discover that you have missed a **time limit**, seek help from a qualified representative as soon as possible. Both WSIB and the Workplace Safety and Insurance Appeals Tribunal (WSIAT) have the authority to **extend time limits**.

### What If You Did Not Appeal on Time?

- First, inform WSIB in writing that you want to appeal the decision. This will prevent the appeal from being considered any later than it already is. See OWA Fact Sheet 24 called “Appealing to WSIB”.
- Unless WSIB has already advised you about missing the time limit, it is not necessary to mention it at this point. WSIB may simply allow you to proceed with your appeal without making an issue of the time limit.
- In most cases, however, the Claims Adjudicator will write to advise you that the appeal is late and will not be sent to the Appeals Branch. At this stage, it is necessary to ask for an extension of time. Sometimes, it may be better to ask for a **reconsideration** of the decision, instead of an **extension of time** to appeal the decision.

### When Should You Ask for a Reconsideration Instead of an Extension?

After the **time limits** have passed, WSIB is more likely to reconsider a decision under the following circumstances:

- If there is a technical error in the decision that needs to be corrected → for example, wrong dates, policy, or earnings information,
- If there is substantial new evidence → for example, new medical testing, breakthroughs in medical science, or other information that was not reasonably available within the appeal period.

If WSIB denies your request for a reconsideration, you can still ask for an **extension of time** to appeal the decision.

### When Will WSIB Extend the Time Limit to Appeal a Decision?

According to the WSIB guidelines, when an appeal is made within **one year** of a WSIB decision, WSIB has the broad discretion to extend the time limits. This means that if your appeal is made late, but within **one year** of the date of the WSIB decision, it is likely that you will be granted an extension of time.

When an appeal is made **more than one year** after the date of a WSIB decision, then WSIB will consider additional factors.

WSIB can consider the following factors in deciding an extension of time:

- if there were serious health problems (either your own or someone in your immediate family)
- if you had to leave the province due to poor health or the death of someone in your immediate family
- if someone actually told or wrote to you about the time limit (decisions made before 1998 did not advise workers about appeal time limits)
- the length of the delay before starting your appeal (a shorter delay is better)
- whether there are other issues you had appealed on time that are closely related to the issue for which you missed the time limit
- the importance of the issue in dispute
- if you were able to understand the time limit requirements (for example, perhaps you had problems with language or reading, had little experience with the workplace insurance system, or lacked a qualified representative)

### **What If Your Circumstances Are Different From Those Listed Above?**

The factors listed above are just examples. There is nothing to prevent WSIB decision-makers from considering other factors. In the end, you need a good reason to explain why you did not appeal the decision on time. If you have a good reason and it is not listed above, you should still notify WSIB.

### **What If WSIB Does Not Extend the Time to Appeal the Decision?**

If a Claims Adjudicator denies an extension of time, you can appeal that decision to an Appeals Resolution Officer (ARO) within **six months** of the date of that decision. See OWA Fact Sheet 24 called “Appealing to WSIB”. If the appeal to the ARO is not successful, you can further appeal to the Workplace Safety and Insurance Appeals Tribunal (WSIAT). See OWA Fact Sheet 25 called “Appealing to WSIAT”. If you win the WSIAT appeal, you can then go back to the ARO to appeal the first decision that you originally missed the time limit on.

#### **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*

