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# Important Changes to the WSIB's Appeals Program – What You Need to Know and Do

**Date:** April 8, 2013

In February 2013, the Workplace Safety and Insurance Board ("WSIB") implemented its Modernized Appeals Program. The WSIB plans to reduce its backlog of cases through significant changes to the appeal process. This new program only applies to claims and does not apply to financial or revenue issues.

Some of the key changes under the Modernized Appeals Program include:

- Parties wishing to appeal a decision must now file an "Intent to Object" Form. This Form is available on the WSIB website. **The deadlines to appeal a decision continue to be 30 days for return to work and work transition decisions and six months for all other decisions.**
- Once the Intent to Object Form has been filed, a responding party must submit a "Participant" Form. There is no deadline to complete this form. However, if it is not on file when an Appeals Readiness Form ("ARF") is submitted by the objecting party, **the file will continue to be processed with no further contact to the responding party.**
- Once an Intent to Object Form is submitted, the objecting party will receive a copy of the claim file as well as an ARF. There is no deadline to submit the ARF. However, when an ARF is submitted, it is assumed that all relevant information is being provided with the ARF, including written submissions in support of the appeal.
- **It is assumed that most appeals will be conducted in writing.** The WSIB has created an issue specific chart listing whether the appeal will proceed orally or by way of written submissions. Oral hearings may also be deemed necessary in exceptional circumstances, such as situations where there is conflicting or inconsistent evidence, where direct testimony is necessary, and/or where credibility is critical to the resolution of the claim. Oral hearings will not be granted simply because such a request has been made.
- Once a completed ARF has been submitted, the responding party will receive a "Respondent Form" along with a copy of the claim file. If the hearing is going to be conducted in writing, **a responding party has only 30 days to submit the Respondent Form.** The responding party is expected to submit all relevant information including written submissions with the Respondent Form.
- If the objecting party requests an oral hearing, and a written hearing is ordered, the responding party will have an extra 21 days to respond to the ARF.
- If an oral hearing is deemed necessary, it is to be scheduled within 90 calendar days from the date that the decision was made to grant an oral hearing.

The WSIB will continue to maintain its historic approach to "downside risk".

"Transition Appeal Readiness" Forms have been sent out to parties that have outstanding claims. **Parties have 90 calendar days to complete and return this Form.** If this Form is not returned in 90 calendar days, the case will be withdrawn without prejudice and a regular ARF can be submitted at any time in the future.

## HOW TO BE READY FOR THE NEW MODERNIZED APPEALS PROGRAM

Some suggestions to ensure that you are ready for these changes include the following:

- Review outstanding claims and confirm whether a Transition Appeal Readiness Form has been received. Submit the Transition Appeal Readiness Form within the 90 day time period to maintain your position within the appeals queue.

- Once the Intention to Object Form has been submitted, ensure that all necessary decisions have been made in writing and that all essential information is available before completing the ARF.
- If relevant information is not in the file, include it when submitting the ARF or indicate that it should be part of the claim file and must be obtained by the WSIB.
- If you are the responding party, it is critical that you submit the Participant Form as soon as possible. Once you have submitted this form, begin to review the claim, think about and obtain any evidence that will be required and prepare at least a draft outline of your position so that you will be able to meet the 30 day deadline to submit a Respondent Form after the ARF and claim file are provided.

The changes to the appeals process include significant deadlines and place an even greater onus on employers to be organized and prepared well in advance of receipt of the Respondent Form.

For further information with respect to the WSIB's Modernized Appeals Program, and how your organization can be best prepared, please your regular Hicks Morley lawyer.

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