

Section	Policy
20	20.10

Section Title: Board and Corporate Administration
Subject: Reconsiderations
Effective Date: Requests for Reconsideration Received on or after January 1, 2022

A. POLICY PURPOSE

The Workers Compensation Act (the Act) establishes the framework for reconsideration of WCB decisions. Reconsideration is an internal review of a WCB decision, conducted by someone other than the primary-decision maker. In most cases, reconsideration is required before a WCB decision may be appealed to the Appeal Commission.

This policy identifies the types of decisions the WCB will and will not reconsider, the principles governing reconsiderations, and the basic features of the reconsideration process.

B. POLICY

1. DEFINITIONS

In this policy, "**decision**" means decisions made on specific matters, such as claims adjudication, assessment rates and administrative penalties, made "at the primary level."

The terms "**primary-level**" and "**primary decision-maker**," refer to the initial corporate decision-making body which makes and communicates the decision (Compensation Services, Assessment Services, etc.).

2. SCOPE

The Act mandates reconsideration of any compensation or assessment-related decision and any other matter that is identified as eligible for reconsideration in WCB policy. While the WCB has broad authority to reconsider any other decision it has made, some WCB decisions will not be reconsidered, while others are appealable directly to the appeal commission.

Specific subject matter policies, such as the *Prevention Rebate Program* and *Compliance and Enforcement* policies, provide guidance on what decisions are, and are not, subject to reconsideration.

Within this scope, the WCB will only reconsider specific *substantive* decisions. Procedural and purely administrative decisions are not subject to reconsideration.

3. PRINCIPLES OF RECONSIDERATION

The reconsideration process is governed by the rules of natural justice, as are all WCB decisions. Natural justice principles include the right to a fair hearing and the right to reasoned decisions. This means that reconsideration is characterized by impartiality and objectivity, and transparency in communications.

Those seeking reconsideration have the right to a fair hearing, to present evidence and arguments, and to be informed of new issues or new information relevant to the reconsideration as these matters arise. They are required to respond to information provided by other parties within reasonable timeframes.

4. RECONSIDERATION PROCESSES

A person requesting reconsideration of a decision that lies within the scope of this policy, **must have a direct interest in the decision and must make the request in writing to the Review Office**, which is the WCB's designated single point of registration for all reconsideration requests.

Prior to Reconsideration

Before proceeding with a formal written request for reconsideration, individuals should first contact the primary decision-maker to see if the matter can be resolved. Doing so also helps ensure that all pertinent information needed to make the decision is on file and the reasons for the primary decision are understood. If not resolved, formal reconsideration can proceed. Until a reconsideration decision is made, the original primary decision stands as the decision of record.

During Reconsideration

Reconsideration consists of a review of all pertinent information, including new information submitted during the review process. Reviews are performed by senior WCB staff who are separate and apart from the primary decision-maker, but with expertise in the area.

Reconsiderations are conducted by written communication in which the parties can present information and respond to information submitted. All information shared with the parties to a review is done in accordance with the Act and relevant WCB policies, and in compliance with *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.

A request for reconsideration may be formally withdrawn, in writing, at any time before the reconsideration is complete. In rare circumstances, the request for withdrawal can be refused if doing so would leave a decision in place that contradicts the Act, regulations, or policies of the WCB.

After Reconsideration

If a reconsideration decision is perceived to be unclear, contains an obvious error (e.g., a grammatical or clerical error), or is missing a piece of relevant information, parties to a decision have the right to seek clarification. Nothing limits the WCB from issuing its own clarifications in order to resolve disputes and promote finality of decisions.

Parties who are dissatisfied with a reconsideration decision may only ask for a *second* reconsideration decision when new material evidence directly relevant to the decision arises after the decision is made. Otherwise, they may pursue the next level of appeal, which is the external Appeal Commission.

The reconsideration must be completed, and the decision communicated in writing before the matter can proceed to the Appeal Commission. A decision cannot be under reconsideration by the WCB and before the Appeal Commission at the same time.

C. REFERENCES

The Workers Compensation Act, in particular Sections 19.1, 49.3, 60(3), 60.1, 86(3) and 109.7
The Freedom of Information and Protection of Privacy Act
The Personal Health Information Act

Related WCB Policies:

21.50.10, *Disclosure of File Information*
21.50.40, *Disclosure of Information – Employer Access*
22.20, *Compliance and Enforcement*
52.40, *Prevention Rebate Program*

History:

1. Policy 20.10, *Reconsiderations*, established by Board Order No. 21/15 on May 26, 2015, effective July 1, 2015.
2. Policy 21.00, Review Office and Policy 21.05.10, *Reconsideration of Assessment-Related Decisions* were both rescinded by Board Order No. 21/15 on May 26, 2015.
3. Policy amended by Board Order 39/19 on November 28, 2019, to reflect a single-point of registration for all reconsiderations.
4. Minor formatting changes were made to the policy, September 2020.
5. Policy amended by Board Order 10/21 on April 19, 2021, to clarify decisions that the WCB is obligated to reconsider from those the WCB has the authority, but not the obligation, to reconsider. These changes are effective for all reconsiderations received on or after January 1, 2022.
6. In March 2022, the policy reference in section 2 was updated to reflect the new title of the amended policy 22.20, *Program Abuse*. Policy 22.20, *Compliance and Enforcement*, was added to the reference section.