

Section	Policy
40	44.05.20

Section Title: Benefits Administration - *Adjudication and Compensation*
Subject: Conflicting Health Care Evidence and Opinions
Effective Date: July 1, 2024

A. POLICY PURPOSE

Medical evidence is frequently relevant to claims adjudication, and can assist WCB decision makers in making benefit entitlement decisions under the *The Workers Compensation Act* (the Act). However, when gathering medical evidence, WCB decision makers may obtain differing interpretations of that evidence (i.e. conflicting opinions) from health care providers on matters such as diagnosis, prognosis, treatment, causation, and the worker's functional abilities and limitations. These conflicting opinions can be challenging to evaluate and weigh.

This policy:

- outlines the steps WCB decision makers will take to gather medical evidence, and to assess conflicting medical opinions, including when one of those opinions has been provided by a WCB Health Care Advisor;
- describes how WCB Health Care Advisors will address conflicts when their interpretation of medical evidence conflicts with that of the worker's treating health care provider(s); and
- provides factors that WCB decision makers should consider when deciding how much weight to give to a health care opinion.

B. POLICY

I. Definitions

"Health care provider" is defined in the Act and means a physician, nurse, dentist, chiropractor, occupational therapist, optometrist, physiotherapist, podiatrist, psychologist, or a member of any other health care profession or occupation recognized by the Board.

"WCB Health Care Advisor " is a member of a health care profession or occupation defined in the Act, under contract as a consultant to the WCB. Their role is to provide advice, opinions, and support to WCB decision makers, and health care provider colleagues in the community. WCB Health Care Advisors help WCB decision makers understand medical details in a claim.

II. Gathering Medical Evidence

WCB decision makers must gather evidence until they are satisfied there is sufficient evidence upon which to make an entitlement decision. When gathering evidence, WCB decision makers must determine whether the evidence in question is relevant and material to the decision they have been called upon to make. They must make this determination regarding all evidence, including medical evidence.

It is important to note that medical evidence is only one type of evidence that decision makers must weigh.

When WCB decision makers determine that medical evidence is necessary for a claim decision, they must make reasonable efforts to obtain information relevant to the claim file from the worker's treating health care provider(s).

III. Assessing and Weighing Health Care Opinions

If the opinion of the worker's treating health care provider:

- contains incomplete findings (for example, an incomplete report);
- contains findings or recommendations that are not consistent with other evidence on file;
- conflicts with the principles outlined in policy 44.120.10, *Medical Aid*; or
- differs significantly from the recommendations or opinions obtained from other health care providers involved in the worker's case

decision makers may request that a WCB Health Care Advisor provide advice or clarification on the medical information obtained from the worker's treating health care provider(s). The WCB will also make reasonable efforts to contact the health care provider(s) involved, to clarify the matter.

WCB decision makers must document their reasons for all referrals to a WCB Health Care Advisor.

When the WCB requests a worker submit to medical examination (a "call-in exam") by a WCB Health Care Advisor, the WCB will provide the resulting medical report to the worker's relevant treating health care provider(s).

If, after reviewing the file or examining the worker, the WCB Health Care Advisor finds that their assessment conflicts with an opinion on file provided by the worker's treating health care provider(s), the WCB Health Care Advisor must, in their own written opinion:

- acknowledge the conflict; and,
- provide the rationale for their differing opinion.

Occasionally, a situation arises where the WCB may request a worker submit to medical examination by a Non-Treating Medical Examiner (i.e., not affiliated with the WCB). The Non-Treating Medical Examiner provides the resulting medical report to the WCB.

When deciding how much weight to give to a health care opinion, WCB decision makers will consider:

- whether the opinion provided is based on an examination of the worker (if, depending on the circumstances, an examination is relevant);
- the timeliness of the medical examination in relation to the issue for decision (for example, related to the worker's injury, or the worker's recovery, etc.);
- the degree of the health provider's knowledge of the worker's past and present medical history, if relevant;
- whether the opinion provides a demonstrated understanding of the medical matter at hand, and its associated impact on the worker's functional abilities and limitations;
- whether the opinion recognizes the worker's pre-existing conditions or co-morbidities;
- whether the opinion acknowledges and evaluates the worker's complaints and symptoms relative to their injury; and
- the expertise of the health care provider offering the opinion in relation to the medical issue, mechanism of injury, or fitness for return to work.

WCB decision makers must not:

- automatically prefer the prevailing healthcare opinion on file (for example, where four doctors have one opinion, and only two doctors have another); or,
- privilege the opinions of WCB Health Care Advisors over other health care providers without consideration of other factors set out in this policy.

WCB Decision makers must analyze the opinions and conflicts as best as possible on each issue and arrive at their own conclusions about where the weight of the evidence lies.

Occasionally, a situation arises where conflicting health care evidence or opinions cannot be resolved by applying the course of action laid out in this policy. In this circumstance, the WCB or Appeal Commission may refer the matter to an Independent Medical Examination, or a Medical Review Panel (see Section C, References, below).

C. REFERENCES

The Workers Compensation Act, sections 20, 21, 22, 27

Related WCB Policies:

22.00, Decision Making

40.20.20.10, Independent Medical Examinations

42.10.70, Medical Review Panels

42.10.70.20, Convening a Medical Review Panel

44.120.10, Medical Aid

History:

1. New policy created by Board Order 21/24 on April 25, 2024, effective July 1, 2024. This policy is designed to assist in the assessment and weighing of medical opinions.