

Section Title: Board and Corporate Administration - Board Administration
Subject: Disclosure of File Information
Effective Date: January 1, 2008

POLICY PURPOSE

The Workers Compensation Act (the Act) permits the Workers Compensation Board (the WCB) to collect information from workers and their dependants, employers, healthcare practitioners and others in order to fulfil its mandate under the Act. In certain defined circumstances, the Act provides disclosure of information held by the WCB. The Act also imposes a duty of confidentiality with respect to WCB information. Should the information be used for a purpose other than that for which it was intended, a fine may be imposed.

The WCB is also subject to the provisions of *The Freedom of Information and Protection of Privacy Act* (FIPPA) and *The Personal Health Information Act* (PHIA). FIPPA and PHIA provide rules regarding the collection, use, disclosure, retention and destruction of information.

This policy clarifies what information will be shared, with whom, and in what circumstances.

A. POLICY

I. GENERAL

1. All WCB employees must refrain from discussing confidential information with each other and with persons not employed by the WCB except as required in the performance of their duties for the WCB.
2. This paragraph applies to external requests and not to matters initiated by the WCB.

Disclosure of file information will be provided to a representative of the claimant or employer only if authorized in writing. The authorization must specify the claim number or firm number, the name of the person who may receive the information, the type of information and the current date. It must be signed by the person entitled to receive the information. An example of an authorization form is set out in Appendix A. It may be modified to fit individual circumstances.

When a claimant is unable to complete an authorization form due to mental or physical incapacity, the claimant's legal representative may act on the claimant's behalf.

3. The WCB will not honour blanket or general consent forms releasing information to parties other than the claimant or employer.
4. Authorizations or consents will remain valid for a maximum period of two years or until revoked in writing by the claimant or employer.

5. Once an authorization is received, the WCB will release the information to the representative as if he or she were the claimant or employer.
6. Persons requesting file information will be required to provide sufficient information to enable the WCB to confirm their identity or their authority.
7. The WCB will provide the first copy of claim file information to claimants or their authorized representatives at no charge. Employers or their representatives will also be provided the first copy of their employer file or copies of claim file information to which they are entitled at no charge. With the payment of a fee, a second copy of file information will be provided to a claimant, employer, or their authorized representative. The current fee schedule for duplicate copies of information already provided is set out in Appendix B. Appendix B will be reviewed periodically and adjusted by WCB staff to reflect current administration costs.
8. Correspondence relating to third-party confidential information will not be provided to the claimant, employer or their authorized representative. Third-party confidential information is that information which is protected from disclosure by law. Examples of third-party confidential information include:
 - Workplace Safety and Health investigation reports and related material;
 - Provincial Ombudsman correspondence;
 - Information about an employer's competitor placed on the employer's file; and
 - Legal opinions that involve solicitor/client privilege of the WCB and its solicitors.
9. In circumstances not contemplated by this policy, the release of information must be authorized by the President and Chief Executive Officer or designate.

II. CLAIM FILE INFORMATION

10. No copies of claim file information can be provided to a claimant or employer before the WCB has made its initial decision to accept or deny the claim.
11. Information from individual claim files will not be released to anyone other than a claimant or employer directly involved in that file, unless it is (a) authorized by the claimant, (b) required for appeal purposes; (c) initiated by the WCB for its purposes, (d) authorized by an information sharing agreement approved by the President and Chief Executive Officer or designate or (e) authorized by FIPPA or PHIA
12. Both FIPPA and PHIA permit disclosure of information without consent in certain circumstances. Legal Services must be consulted when a request for this type of disclosure is received. An example of this type of disclosure would include disclosure to law enforcement agencies for law enforcement purposes.

A. Claim File Information Requested by the Claimant

13. The claimant may review or have a copy of his or her claim file at any time. The information will be released subject to any restrictions specified in this policy.
14. A claimant has full access to the correspondence section of the claim file. WCB medical staff reports are considered part of the correspondence section.
15. A claimant has full access to medical reports made or submitted to the WCB on or after September 15, 1983. A claimant may have access to medical reports made or submitted to the WCB prior to September 15, 1983, subject to the approval of either (1) the healthcare practitioner who made the report, or (2) the Medical Access Committee.

"The Medical Access Committee" is the committee designated by the Minister Responsible for *The Workers Compensation Act* to determine whether medical reports made or submitted to the WCB prior to September 15, 1983, may be released to the claimant or the claimant's representative.

B. Claim File Information Requested by the Employer

16. Upon request, the employer will receive a copy of the claim file if the claim is under reconsideration or appeal. The employer will only be provided claim file information that is relevant to the particular issue under reconsideration or appeal. Claim file information received by the WCB after January 1, 1992 is governed by policy 21.50.40, *Disclosure of Information - Employer Access*.

This portion of the policy relates to claim file documents received by the WCB before or on January 1, 1992.

17. The employer has full access to the correspondence section of the claim file, which includes medical reports from WCB medical staff.

The employer does not have access to any medical reports submitted to the WCB from external healthcare practitioners.

18. Employers are entitled to know:

- the date on which a claimant was issued benefits;
- a general description of the reasons for a claim decision;
- any physical restrictions placed on a claimant due to the claimant's compensable injury; and
- information regarding the current status of vocational rehabilitation services for a claimant and the associated costs.

19. Under subsection 60.10(1) of the Act, a claimant may apply to the Chief Appeal Commissioner requesting that the Appeal Commission reconsider its decision on the basis that new evidence has arisen or been discovered since the hearing was held. If the Chief Appeal Commissioner directs the Appeal Commission to reconsider its decision, the employer is entitled to have access to the documents upon which the request under subsection 60.10(1) was made by the claimant.

III. EMPLOYER FILE INFORMATION

20. An employer may review or have a copy of the employer file at any time. The information will be released subject to any restrictions specified in this policy.
21. The sale or take-over of a business may generate requests from prospective buyers about the status of a business or the amount of an unpaid assessment. These requests must be made in writing, accompanied by the existing employer's written authorization to release the information requested. Information about individual claims will not be disclosed to prospective buyers.
22. In general, where all or part of a business changes ownership, the claims cost experience will be transferred from the former employer to the new employer as provided for in policy 31.05.20, *Transfer of Employer Cost Experience on Change of Ownership*. If the claims cost experience is transferred to a new employer, the new employer can obtain any information the former employer was entitled to regarding the transferred claims.
23. Where a principal is being asked by the WCB to withhold settlement from a contractor under sections 89 or 90 of the *Act*, the only information to be disclosed to the principal is the amount of assessment that the principal may become liable for under those sections. Where the contractor agrees in writing that the principal may withhold the contractor's entire outstanding receivable, the contractor's entire outstanding assessment amount will be disclosed to the principal.
24. Receivers, Receiver Managers, Trustees, and Executors who have taken over management of a firm are entitled to the same information as the employer would have been entitled to receive. The WCB will release the information when it has confirmed the person's appointment to manage the firm.

IV. CLAIM OR EMPLOYER FILE INFORMATION REQUESTED BY OTHER PERSONS OR AGENCIES

A. HEALTHCARE PRACTITIONERS AND AGENCIES

25. A claimant's medical information will not be provided to an external healthcare practitioner or agency unless the claimant has authorized release of the requested information. This paragraph applies to external requests and not to matters initiated by the WCB.
26. If the external information request deals with medical reports made or submitted to the WCB prior to September 15, 1983, these reports require additional approval prior to their release. The

medical reports will not be released unless (a) the healthcare practitioner who made the report approves or (b) the Medical Access Committee approves release of the report(s).

27. Where practitioners' offices and other health service professionals are contacting the WCB to determine (a) if they may bill the WCB for services provided to a claimant, or (b) the status of a claim, the WCB will disclose only that the claim has been accepted or rejected, with an explanation of the decision where necessary.

B. MANITOBA OMBUDSMAN

28. Information requests from the Ombudsman are referred to the President and Chief Executive Officer or designate.
29. *The Ombudsman Act* provides the Ombudsman with the authority to access file information.

C. WORKPLACE SAFETY & HEALTH, AND GOVERNMENT DEPARTMENTS

30. The WCB may release information from claim and employer files to the Workplace Safety and Health Division. This information will enhance the Division's ability to target workplace inspections, conduct accident investigations, perform workplace analyses and undertake safety initiatives.
31. Information from claim files may be released to the Chief Occupational Medical Officer of the Workplace Safety and Health Division upon request.
32. Requests made by Members of Parliament, Members of the Legislative Assembly, Special Assistants to members of the Executive Council, and government departments or agencies are to be referred to the President and Chief Executive Officer or designate. The President and Chief Executive Officer or designate will release information as authorized by the provisions of the Act, FIPPA, PHIA and this policy.

D. REQUESTS RELATED TO LEGAL ACTION INCLUDING MOTOR VEHICLE ACCIDENTS

33. Inquiries related to the status of a claimant or employer involved in an accident that involves a legal action will be dealt with by a designated individual in Legal Services. The WCB will provide its position as to the status of parties at the time of the accident.
34. The WCB may disclose claim information during the course of legal action it has undertaken against third parties not covered by the Act.
35. Upon the receipt of an authorization from previous or current recipients of workers compensation benefits, accident insurers, such as Manitoba Public Insurance (MPI), may obtain claim information from the WCB. Where the information to be provided includes a

WCB third-party claim, Legal Services must be notified prior to providing any information.

36. Under the Cost Recovery Agreement (the Agreement) between MPI and the WCB, the WCB may provide claim information to MPI without the claimant's consent . Disclosure pursuant to the cost recovery agreement will be dealt with by Legal Services.
37. Under the Agreement, the WCB will not provide information to MPI until the claimant has provided a written authorization when there is an overlapping claim between the two agencies. The Agreement defines an overlapping claim as one where a person is receiving compensation under one Act and becomes entitled to compensation under the other Act.

E. OTHER WORKERS' COMPENSATION BOARDS

38. When another WCB has an interjurisdictional agreement with Manitoba and administers a claim for the Manitoba WCB, copies of all reports and documents necessary for the effective administration of the claim can be released to the other jurisdiction without the claimant's consent.
39. The WCB may share, receive and use information in connection with the WCB's rights and obligations under an interjurisdictional agreement.
40. In circumstances where a claimant has separate claims in more than one jurisdiction and each jurisdiction is administering its own claim, the claimant's written consent is required before the Manitoba WCB will release information from the claimant's file to the other WCB.
41. Employer file information may be shared with other WCBs without the employer's consent.

F. OTHER THIRD PARTIES

42. Where the WCB contracts with persons to provide services to claimants or employers, or to administer specific aspects of the workers compensation program, information will be shared with individuals as if they are employees of the WCB
43. Only the minimum amount of necessary information will be provided to contractors or other third parties. Examples of third parties are: bailiffs, sheriffs, law offices or collection agencies who are engaged to collect outstanding debts or service providers.

B. REFERENCES

The Workers Compensation Act, subsections 63(1-3) & 64(1-4), 101(1) (**Prior to January 1, 1992**)

The Workers Compensation Act, subsections 101(1) to 101(7) (**After December 31, 1991**)

WCB Policy 21.50.40, *Disclosure of Information - Employer Access*

WCB Policy 52.10, *Research and Workplace Innovation Program*

The Freedom of Information and Protection of Privacy Act

The Personal Health Information Act

The Ombudsman Act

Interjurisdictional Agreement on Workers' Compensation

Cost Recovery Agreement between Manitoba Public Insurance Corporation and the Workers Compensation Board

History:

1. Board Order 164/82, Disclosure of Information, dated September 29, 1982, established policy and procedure for disclosure of information.
2. Board Directive dated September 14, 1983, Procedure for Implementation of Section 52.3(3), established a process for handling requests for access to medical information provided to the WCB prior to September 15, 1983.
3. Disclosure of File Information - Series A-D policy approved by Board Order 140/84 on September 26, 1984. Board Order 164/82 rescinded.
4. Board Order 92/85 dated June 12, 1985, amended the procedure for implementation of Section 52.3(3). September 14, 1983, Board Directive rescinded.
5. Policy amended by Board Order 92/89 on May 24, 1989, to clarify what material may be released to which individuals and/or organizations, from which files, and under what circumstances. Board Order 140/84 rescinded.
6. Policy amended by Board Order 10/90 on May 3, 1990, to clarify circumstances under which the WCB would release specific information to the Manitoba Public Insurance Corporation.
7. Policy 21.50.10 (re-write) approved by Board Order 24/91 effective November 26, 1991, inclusive of an amendment to restrict access to income tax information.
8. Addition to Policy 21.50.10 approved by Board Order 24/93 to permit access to individual claim file information by the Chief Occupational Medical Officer of the Workplace Safety & Health Division upon request.
9. Policy updated March 2, 1995, to correct the reference to Board Directive dated September 14, 1983. This directive was rescinded and replaced by Board Order 92/85.
10. Addition to Policy 21.50.10 approved by Board Orders 7/99 and 21/99, effective June 1, 1999, to cover information requests by other parties not specifically identified elsewhere in the policy. Board Orders 141/84, 92/85, 45/89, 92/89, 10/90, 24/91 and 24/93 were rescinded.
11. Minor clarifications/changes made to policy (items 12, 14, 17, and 40) – March 2003.
12. Change in reference to the Act. Page 5, update the name of policy 52.10 and an amendment to the penalties imposed for unauthorized disclosure of confidential information.
13. Policy amended by Board Order 41/07 on December 21, 2007, effective January 1, 2008, to:
(a) reference FIPPA and PHIA; (b) change decision-maker on information sharing requests from Board of Directors to CEO; (c) remove section on data-sharing; and (d) reorganize and consolidate policy.
14. Minor formatting changes were made to the policy, June 27, 2012.

WCB Policy 21.50.10

APPENDIX "A"

Sample Authorization Form

This form gives the WCB permission to give your personal information to another person.

This authorization will be effective for a period of up to two years. Alternatively, you may cancel this authorization by writing to the WCB.

If you have more than one claim, you need to complete an authorization form for each claim.

Workers' Last Name	First Name	Claim Number
_____	_____	_____

I authorize the WCB to release the following information to _____:

-
-
-
-
-
-
-

Date this _____ day of _____, 20_____.

_____	_____
Witness's Signature	Claimant's Signature

Witness's Printed Name

Name of Person Receiving Information

Release of File

You are entitled to one free copy of your file information. Check Box 1 or Box 2 to tell the WCB how to release the information authorized by you for release.

1. Please send me the copy of the file information. I will take the responsibility for giving the information to the person(s) authorized by me.

OR

2. I give the WCB permission to give the file information to the person directly.

WCB Policy 21.50.10

APPENDIX "B"

Extra copies of file information already provided will be subject to a copying fee of \$50 per hour. The minimum charge is \$25 for an entire file. The minimum charge for updating this extra copy is \$5. An additional copy of any videotapes will be made for \$30 per cassette. An additional copy of DVDs will be made for \$10 per DVD.