

Operational
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Access to Claim File Information

Subject

Disclosure of Claim File Information - General

Policy

All claim file information is considered personal information under the *Freedom of Information and Protection of Privacy Act* (FIPPA) and may be disclosed in limited circumstances in accordance with various exceptions listed in FIPPA. One of these exceptions permits disclosure of personal information where it is required by a statute, such as the *Workplace Safety and Insurance Act, 1997* (WSIA).

In accordance with both FIPPA and the WSIA, the WSIB is also required to protect the confidentiality of most employer/business information, see 21-01-01, Access to Employer Information.

If disclosure of personal information is allowed, the responsible WSIB employee takes steps to limit the disclosure to the information that is necessary to meet the requirements of FIPPA and the WSIA.

Individuals have a right to access their own personal information in most circumstances. Such requests for access should be directed to the appropriate decision-maker.

Purpose

The purpose of this policy is to set out when the WSIB may disclose claim file information.

Guidelines

Definitions

Personal Information means all information about an identifiable individual. The WSIB considers all of the information about, or contained in, a worker's claim file to be personal information, and therefore confidential. For greater clarity, such information includes but is not limited to the fact that an individual has a claim

- particulars such as name, address, age, date of birth
- identifying numbers such as claim and social insurance number, and
- any correspondence sent or received by the WSIB concerning any identifiable individual.

Disclosure means releasing, exchanging or providing information to anyone, including WSIB co-workers. Disclosure can either be verbal or written and can include e-mails, faxes, voice messages, or teleconferencing.

Disclosure of claim file information – regular WSIB business

The relevant exceptions allowing the WSIB to disclose personal information contained in claim files during the conduct of its day-to-day business are listed in FIPPA and include the following:

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Disclosure is allowed if the individual about whom the information relates consents to the disclosure.

Where consent of any individual is required before disclosure of personal information can be allowed, the responsible WSIB employee ensures that such consent is

- valid, i.e., actually provided by or on behalf of the individual, and
- provided verbally or in writing.

This exception generally permits the disclosure of personal information to worker representatives in accordance with the specific wording of the authorization (consent). For more information on disclosure to representatives, see 21-02-04, Disclosure of Claim File Information to Worker or Employer Representatives.

Member of the Provincial Parliament

Disclosure is generally allowed to a Member of the Provincial Parliament who has been authorized by a constituent to whom the information relates to make an inquiry on the constituent's behalf, see 21-02-04, Disclosure of Claim File Information to Worker or Employer Representatives, or where the constituent is incapacitated, has been authorized by the next of kin or legal representative of the constituent.

Union Representative

Disclosure is generally allowed to a member of the bargaining agent who has been authorized by an employee to whom the information relates to make an inquiry on the employee's behalf, see 21-02-04, Disclosure of Claim File Information to Worker or Employer Representatives, or, where the employee is incapacitated, has been authorized by the next of kin or legal representative of the employee.

No consent required

The WSIB does not require the consent of the worker to disclose personal information in the following circumstances:

Disclosure to WSIB employee

Disclosure is generally allowed if the disclosure is to a WSIB employee or officer who needs the information in the performance of their duties.

Federal or provincial law

Disclosure is generally allowed if the disclosure is for the purpose of complying with federal or provincial law, including the WSIA, or a treaty, agreement or arrangement made thereunder.

The WSIA directs the WSIB to provide to employers

- claim decision letters which include supporting reasons
- access to relevant claim information where there is an issue in dispute, and

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- non-economic loss (NEL) assessment reports upon request, see 18-05-03, Determining the Degree of Permanent Impairment.

For information on disclosure of claim file information where there is an issue in dispute, see 21-02-02, Disclosure of Claim File Information (Issue in Dispute).

Purpose of collection and consistent purpose

Where personal information about a worker has been obtained **indirectly**, i.e., from someone other than the worker, disclosure is generally allowed if it is for

- the purpose for which the information was collected, or
- a consistent purpose.

Where personal information has been obtained **directly** from the worker, disclosure is generally allowed if it is

- for the purpose for which the information was collected or,
- for a consistent purpose, **and**
- the worker might reasonably have expected such disclosure.

For assistance in determining the worker's "reasonable expectation," the responsible WSIB employee is encouraged to review the Notice of Collection provided to all workers in the consent section on a Form 6, Worker's Report of Injury/Disease, or the Privacy Statement for Workers.

Generally, the WSIB collects personal information under the authority of the WSIA from workers and others for the following purposes

- to determine initial and ongoing entitlement to benefits and services
- to ensure that appropriate health care services are provided
- to assist the workplace parties in their co-operative efforts during the work reintegration (WR)
- to ensure that appropriate work transition (WT) services are provided
- to allow the WSIB to correctly allocate the costs associated with claims among different employers and/or the Second Injury and Enhancement Fund (SIEF)
- to conduct research into the nature and causes of workplace injuries and diseases, and
- to prevent the occurrence of workplace injuries and diseases.

Where disclosure of personal information would help achieve one or more of these purposes, or where disclosure is consistent with one of these purposes, the information may generally be disclosed.

The purpose for which personal information is being disclosed is considered a "consistent purpose" when it is reasonably compatible with the purpose for which the personal information was collected.

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The consistent purpose provisions permits the WSIB to disclose personal information in certain circumstances

- to treating health care practitioners
- for WSIB referrals including, but not limited to, Regional Evaluation Centers (RECs), NECL assessment physicians, and WT providers, and
- to other external service and payment providers.

For more information see 21-02-06, Disclosure of Claim File Information to Health Care Providers, WT Providers, and Research Entities.

The consistent purpose provision also permits the WSIB to disclose, in certain circumstances, claim file status information to the accident employer, see 21-02-03, Disclosure of Claim File Information to Employers (No Issue in Dispute). Such disclosure recognizes an employer's obligations under the WSIA and their corresponding right to reasonably monitor and participate in the WSIB's compensation process. Such disclosure is therefore consistent with all of the purposes outlined above.

Law enforcement

A government or law enforcement agency in Canada may request access to personal information to aid an investigation leading, or likely to lead, to a law enforcement proceeding. These types of requests are referred to Regulatory services. For more information, see 21-02-05, Disclosure of Claim File Information to Government Agencies.

Compelling circumstances

Disclosure is generally allowed where compelling circumstances exist affecting the health or safety of an individual. For example, where an individual is threatening harm to himself or others, personal information may be disclosed to the parties concerned. Such parties may include the individual's health care provider, family, representative, the police, and the individual, firm or organization against whom the threat is made.

Compassionate circumstances

Where compassionate circumstances exist, personal information may generally be disclosed to facilitate contact with the next of kin, or a friend, of an individual who is injured, ill or deceased. In these cases, only the information necessary to facilitate the contact should be disclosed.

Legal Documents

Legal documents, i.e., summons, subpoena, court order, or search warrant, requesting disclosure of personal information are referred to Legal Services if they arise out of civil or administrative proceedings, or to Regulatory Services if they arise out of criminal proceedings. For more information, see 21-02-05, Disclosure of Claim File Information to Government Agencies.

Disclosure of personal information under FIPPA – formal Freedom of Information requests from research entities

Entities requesting personal information for research purposes must make a formal request to the WSIB under the authority of FIPPA. All such requests should be in writing and directed to the WSIB Privacy Office.

For more information on requests for personal information from research entities, see 21-02-06, Disclosure of Claim File Information to Health Care Providers, WT Providers and Research Entities.

General Provisions

The following two general policy provisions dealing with the confidentiality of personal information contained in claim files should be read into all of the policies for specific cases listed below:

1. Partial Disclosure

In some cases a document will contain some information that can be disclosed and some that cannot. In such cases, the responsible WSIB employee should make a reasonable effort to sever the undisclosable information by blacking it out.

2. WSIB Privacy Office

If the responsible WSIB employee is unsure whether to disclose any personal information, he or she should contact the WSIB's Privacy Office.

Policies for specific cases

For specific policies on disclosure of claim file information to

- **workers and employers** with an issue in dispute, see 21-02-02, Disclosure of Claim File Information (Issue in Dispute)
- **employers** without an issue in dispute, see 21-02-03, Disclosure of Claim File Information to Employers (No Issue in Dispute)
- **authorized representatives**, including **personal representatives** in the case of a **deceased worker**, see 21-02-04, Disclosure of Claim File Information to Worker or Employer Representatives
- **government agencies**, see 21-02-05, Disclosure of Claim File Information to Government Agencies, and
- **health care providers, WT providers and/or research entities**, see 21-02-06, Disclosure of Claim File Information to Health Care Providers, WT Providers, and Research Entities.

Application Date

This policy applies to all decisions relating to the disclosure of claim file information made on or after February 15, 2013, for all accidents.

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Document history

This document replaces 21-02-01 dated February 20, 2006.

This document was previously published as:

21-02-01 dated January 3, 2006

21-02-03 dated October 12, 2004

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended
Sections 47, 57, 58, 59, 131(4), 150(1), 181

Workers' Compensation Act, R.S.O. 1990, as amended
Sections 42, 71, 72(2), 114, 133(1), 155(1)

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