

A Condensed Guide to Appealing a WSIB Decision

This document will provide information on:

- Registering an objection to a WSIB decision
- The Appeal Readiness Form
- Oral Hearings and Hearings in Writing
- Written authorization and representatives
- Employer appeals
- Disagreeing with an Appeals Resolution Officer decision

If you have a question that is not covered here, please call the Appeals Services Division at 416-344-1014 or 1-800-387-0773.

Registering an objection to a WSIB decision

What can I do if I disagree with a WSIB decision?

When we make an adverse decision, the decision maker will notify you in writing, and if they can reach you, by telephone. The letter you receive will ask you to provide additional information that might change the decision.

Respond to this letter as soon as possible and explain why you disagree; point out any facts you think were overlooked and ask the decision maker to reconsider the decision.

If, after reviewing your letter and any additional information you provide, the original decision remains unchanged, the decision maker will send you a letter that explains the reasons. You can then object to the decision.

Is there a deadline for objecting to a WSIB decision?

Yes. The decision letter states your deadline for filing an objection.

Section 120 of the *Workplace Safety & Insurance Act* indicates:

- You have up to 30 days* to object to a WSIB decision about Return to Work (RTW) or Work Transition (WT) issues, including re-employment decisions.
- You have up to 6 months* to object to any other WSIB decision.

* These times are counted in calendar days.

What if I miss the deadline?

If you miss the deadline and still want to object, you must send us a letter asking for an extension and explaining why you missed the deadline. We will write to you to tell you if we can extend the deadline.

We base our decisions to extend time limit deadlines on the reasons for waiting too long. For example, we will consider circumstances such as a serious health problem you or an immediate family member experienced, or a serious illness or death in the family that required you to travel outside the province or country.

How will the WSIB approach the application of the time limit if a party is objecting to two different decisions with two different time limits?

The WSIB will default to the 6-month time limit in a situation where a party is objecting to two different decisions with two different time limits (e.g., work transition (WT) issue with a 30 day time limit and a loss of earnings (LOE) issue with a time limit of 6 months).

How do I start an objection?

The first step to an objection is to file an **Intent to Object Form** found on the WSIB website. You must do this within the time limit specified in your decision letter (within 30 calendar days or 6 months).

How do I get an Intent to Object Form?

Download the [Intent to Object Form](#) (86.0kb, PDF).

Or, you can have one mailed to you by calling 416-344-1000, or 1-800-387-0750.

You must complete and send the first page of the [Intent to Object Form](#) to the WSIB by fax or by mail. An [instruction sheet](#) which will assist you in completing the form is also on the WSIB's website. Alternatively, WSIB staff can assist you in completing the form.

The second page of the form is optional. Complete the second page if you have new information or additional explanations you want the WSIB decision maker to consider.

Can I have someone else complete the Intent to Object Form for me?

Yes. You can get someone else to complete the form on your behalf, but it must be signed by you if you do not have a representative. If you have a representative it is acceptable for your representative to be the only one who signs the form.

Will the WSIB accept a letter of objection?

While the WSIB will continue to accept a letter of objection, the workplace parties are strongly encouraged to complete the Intent to Object Form (ITO), along with any additional information they wish to submit, and to return the form to the WSIB.

The Appeal Readiness Form

What happens after I send my Intent to Object Form to the WSIB?

The decision maker in Operations (Eligibility Adjudicator, Case Manager) will review your **Intent to Object Form** and reconsider their decision if new information is provided. This step generally takes 14 days.

If the decision on the claim is changed, the decision maker will notify you.

For workers, if the adverse decision is upheld, the decision maker will refer your file to our Access Department to provide you with a copy of your claim file, along with an **Appeal Readiness Form** and an instruction sheet.

For employers, once the worker indicates that they do not object to the release of information to you, you will receive initial access to the claim file, along with an **Appeal Readiness Form** and an instruction sheet.

What do I do next?

When you receive a copy of the file, you should review the information to see if anything is missing which will affect the decision that you are objecting to. . If so, you should send this information to the decision maker in Operations, or if you do not have this information but someone else may have it (e.g., a doctor) let the decision maker know what is missing.

If you have no new information to provide and you wish to continue with your objection, you must complete the **Appeal Readiness Form**.

When do I submit the Appeal Readiness Form?

Only submit the **Appeal Readiness Form** when the decision maker in Operations has considered all the facts and has seen all the medical information and any other information you think is important to support your appeal.

Is there a time limit to submit an Appeal Readiness Form?

Once you have submitted an **Intent to Object Form**, there is no time limit for submitting the **Appeal Readiness Form**. In fact, before sending us your **Appeal Readiness Form**, *be sure you are ready* and that we have all relevant information that you want us to consider in support of your appeal.

Oral Hearings and Hearings in Writing

How are hearings conducted?

Appeal hearings may be conducted in writing, orally or by teleconference. While you can state your preference, the WSIB decides if a case is best resolved through a hearing in writing or an oral hearing.

For more information, see the New [Appeals Services Division Practice and Procedures document](#), on methods of resolution.

- **Hearing in Writing (HIW)** - an Appeals Resolution Officer will generally make a decision within 30 days after reviewing the information in your claim file and any additional information you submit on the Appeal Readiness Form (or on the Respondent Form if you are not the party who is objecting to a decision but you are a party who is participating in the appeal). You can attach additional information/argument to the Appeal Readiness Form or Respondent Form.
- An **Oral Hearing (OH)** can be held in person or by teleconference. If the WSIB decides an oral hearing is necessary, we will schedule one to be held within 90 calendar days after we confirm an oral hearing is required.

Once a date has been set, we will send you a Notice of Hearing stating the date, time and place for the hearing. In general, we try to hold oral hearings in the closest city to you that has a WSIB office.

The Appeals Resolution Officer will generally make a decision in your appeal within 30 calendar days after the hearing is completed.

What if I request a Hearing in Writing?

If you are requesting a hearing in writing, complete section 4 on the Appeal Readiness Form and include your full submission (i.e., your full argument to support your appeal). Please complete section 6 and select "hearing in writing".

What if I request an Oral Hearing? Do I need to complete section 4 on the Appeal Readiness Form?

If you are requesting an oral hearing, complete section 4 and select "my position on the issue(s) in dispute is provided below" and indicate "see section 6". "Please complete section 6 and check off "oral hearing". The Appeals Services Division will make a decision on whether an oral hearing is required and will notify you in writing.

If the oral hearing is granted, you will need to be available within 90 calendar days from the date the WSIB confirms an oral hearing is required. If the oral hearing is not granted, the appeal will be dealt with through a hearing in writing.

Is there an opportunity to provide a letter with additional submissions after a request for an oral hearing is denied?

You will have 30 calendar days (plus 5 calendar days for mailing) to send in any additional submission(s) you may wish to make to support your appeal, but it is not necessary that you do so, if you have already provided all the information on or with the Appeal Readiness Form.

If I request a Hearing in Writing, do I have to include my full submission?

Yes, the appeal will be decided based on the claim record and any written submission.

How is it decided if an Oral Hearing or Hearing in Writing is required?

The parties request either an Oral Hearing or a Hearing in Writing on the **Appeal Readiness Form** and **Respondent Form**. Based on the [New Appeals Services Division Practice and Procedures document](#), the information on the **Appeal Readiness Form** and **Respondent Form**, the Appeals Services Division makes a determination on how the appeal will proceed.

Employer as Participant/Respondent

My employee has told me that s/he disagrees with a WSIB decision and is going to object to the decision. What do I do if I want to participate in the process as the worker's employer?

You will be sent a **Participant Form** after the worker has sent a completed **Intent to Object Form**. You should complete the **Participant Form** and return it within 30 calendar days.

How and when will I know if the worker intends to move forward with his or her appeal?

You will receive a copy of the worker's completed **Appeal Readiness Form** and this will identify that the worker intends to move forward with his or her appeal. In a separate mailing you will receive a full copy of the worker's claim file and a blank **Respondent Form** once the worker consents to the release of medical information.

Respondents (Workers and Employers)

If I am a participant and not the objecting party, how long do I have to return the Respondent Form?

You will have 45 calendar days (plus 5 calendar days for mailing) from the date of the cover letter that includes the claim file record and a blank **Respondent Form**.

What if I don't return the Respondent Form?

If you do not return your **Respondent Form** within the time allowed, it is assumed that you have chosen not to participate, and the appeal will proceed without you. You will receive a copy of the appeal decision when the appeal is concluded.

Do I have say in the method of resolution as a respondent (i.e. oral hearing or hearing in writing)?

Yes, you can provide your view on the **Respondent Form** and your view will be considered by the person making the oral hearing determination.

As the objecting party, do I get to respond to what the worker or employer has argued in their submissions?

A rebuttal opportunity may be available for hearing in writing cases, both where a hearing in writing was requested and where an oral hearing was requested and denied. This will occur when the Appeals Services Division concludes that the respondent's submission contains significant new evidence or argument.

Written authorization and representatives

Can I have someone represent me?

Yes, both the objecting party and the respondent can have someone represent them. You must give WSIB written authorization before we can allow your representative to view the claim file. We also need current contact information for your representative. Your representative must sign the Appeal Readiness Form confirming you are ready to proceed with your appeal, and the Respondent Form confirming you are prepared to be available to participate in the appeal.

Note: You do not need a representative to appeal a decision. See the [Intent to Object Form instruction sheet](#) for names of organizations that provide free advice and representation.

Does my representative need to have special qualifications?

To provide legal services on WSIB matters, a representative must be licensed by the Law Society of Upper Canada (LSUC) **OR** must be exempt from this licensing requirement.

A common exemption: You may be represented by a friend or a relative who is not in the business of providing legal services, but who may occasionally help someone for no fee.

Employer Account Appeals

What if I have an objection to an employer account decision?

There have been no changes to the process for objecting to employer account decisions. Any changes to this process will be posted on the WSIB's website.

Objection Forms continue to be used in employer account appeals.

Disagreeing with an Appeals Resolution Officer (ARO) decision

What can do I do if I disagree with the ARO decision?

The ARO decision is the final decision of the WSIB. If you disagree with the ARO decision it can be appealed to the [Workplace Safety and Insurance Appeals Tribunal](#). Alternatively you can request a reconsideration of the ARO decision. You need to provide a letter to the ARO outlining how the request meets the "Standard of Review for Reconsideration". The "Standard of Review for Reconsideration" is outlined in the new [Appeals Services Division Practice and Procedures document](#).