

This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the *Workers Compensation Act* and the *Rehabilitation Services and Claims Manual, Volumes I and II* for purposes of interpretation and application of the law.

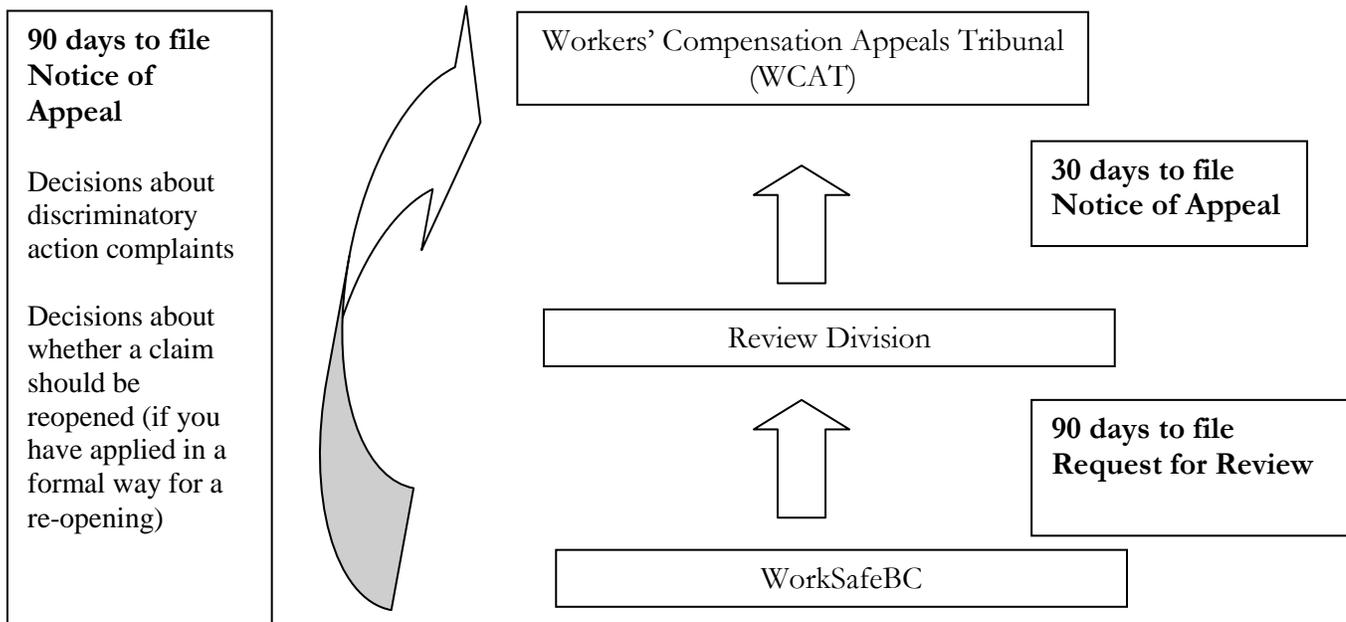
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REVIEWS OF WORKSAFEBC DECISIONS

Overview

If you disagree with a decision that WorkSafeBC has made about your claim you can appeal that decision. There are two levels of appeal in the workers' compensation system. For most issues, the first level of appeal is the **Review Division** and the second level of appeal is the **Workers' Compensation Appeal Tribunal (WCAT)**. An appeal to the Review Division is called a "Review". An appeal to the WCAT is called an "Appeal".

There are some exceptions to this general process. For example, decisions about discriminatory action complaints cannot be appealed to the Review Division, but must be appealed directly to the WCAT.



For more information:
Website: gov.bc.ca/workersadvisers

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What is the Review Division?

The Review Division is part of WorkSafeBC, but it is separate from the operational divisions of WorkSafeBC.

The purpose of the Review Division is to review WorkSafeBC decisions. The Review Division will only change a WorkSafeBC decision in the following circumstances:

- the original decision is inconsistent with the law and WorkSafeBC policies;
- the evidence has not been properly weighed; or,
- there is significant new evidence that supports a change in the original decision.

Review Division decisions are made by Review Officers.

Can I request a review of any decision about my claim?

You can request a review of any WorkSafeBC decision about compensation or rehabilitation benefits except for decisions about the reopening of your claim for benefits if a formal request for a reopening was made. There is a 90-day time limit to request a review.

If you dispute a re-opening decision that you applied for formally, you have the right to appeal the decision directly to the Workers' Compensation Appeal Tribunal (WCAT). You also have a right to appeal decisions regarding orders made against you and discriminatory actions to WCAT, without going to the Review Division. The time limit for a direct appeal of a reopening decision to WCAT is 90 days. See Factsheet, *Appeals to the Workers' Compensation Appeal Tribunal (WCAT)*.

What if my employer asks for a review?

You should consider participating if the Review might affect your WorkSafeBC benefits. In order to participate in the Review you must send a completed Notice of Participation form to the Review Division.

What decisions can be reviewed?

You can request a review of most decisions made by WorkSafeBC, including:

- Whether your claim for compensation should be allowed;
- The extent of compensation benefits you are entitled to (including vocational rehabilitation and medical assistance); and

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- Whether a claim should be reopened (if you have not applied in a formal way for a re-opening).

Some decisions of WorkSafeBC cannot be the subject of a review and must be appealed directly to the Workers' Compensation Appeal Tribunal, known as "WCAT". These include:

- Decisions about discriminatory action complaints; or
- Decisions about whether a claim should be reopened (if you have applied in a formal way for a re-opening).

How do I start a review?

To start a review you need to complete a Request for Review form and send it to the Review Division.

The Request for Review form can be obtained from any WorkSafeBC office or any Workers' Advisers Office. It is also available on-line on WorkSafeBC's website (www.worksafebc.com) or from our web site (gov.bc.ca/workersadvisers). You can also request a Review of the decision online: <https://www.worksafebc.com/en/review-appeal/submit-request>

If you are disputing more than one decision letter, you must send in a separate Request for Review form for each decision letter you want reviewed by the Review Division.

You or your representative must sign the Request for Review form. If your representative signs the Request for Review form on your behalf, he or she must attach an authorization that you have signed, unless he or she is a Workers' Adviser.

When you send your Request for Review form to the Review Division you should also attach a copy of the WorkSafeBC decision letter you want reviewed.

What is the deadline for requesting a review?

You must submit a Request for Review form to the Review Division within **90 days** from the date of the WorkSafeBC decision that you disagree with.

Our office recommends that you request a copy of your claim file immediately (by sending in a Request for Disclosure form), but that you consider sending in your Request for Review form just before the 90-day deadline. This will give you some additional time to get further evidence and prepare for the Review in case you need it. However, if you do this, **be sure not to miss the deadline.**

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How do I send in my Request for Review form?

You can submit a Request for Review online or send the Request for Review form to the Review Division by mail or fax (604-232-7747).

When you send in the Request for Review form, the Review Division will automatically send you a copy of your complete claim file.

What happens if my request is late?

If the Review Division does not receive your Request for Review form within the 90-day deadline, your Review will not proceed. Instead, you will be required to make a written request for an extension of time.

Decisions regarding whether or not to grant an extension of time are made by the Chief Review Officer. The Chief Review Officer will consider granting your request for an extension of time if your form was late for a very good reason and you can show that it would be unjust not to grant your request. You will need to explain in writing why your request was late and why it would be unjust not to review the decision. You must attach this to the Request for Review form and send it to the Review Division.

There is no guarantee you will be granted an extension of time, even if you have a good reason for needing additional time and can show why it would be unjust for your request to be denied. The Chief Review Officer may still exercise his or her discretion to not grant your application for an extension of time. The decision on your Extension of time request cannot be further appealed to WCAT.

For more information, please see our factsheet entitled *Extension of Time Applications*.

What happens after I send my Request for Review form to the Review Division?

Once you send in the Request for Review form, the Review Division will set a second deadline. This is your submission deadline. The Review Division will ask you to send in any additional evidence that you are able to get to support your case by the submission deadline. The submission deadline 34 days from the date the Review Division receives your Request for Review form.

The submission deadline may not give you enough time to get the evidence you need. If you need more time, you can call the Review Division and ask them to extend your submission deadline.

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How are reviews conducted?

In almost all cases, the review will be decided by “Read and Review”. This is a written review process. This means that the Review Officer will read your file and make a decision about your review without holding a formal hearing.

You can write a letter to the Review Officer and tell your side of the story. You can explain in this letter why you think you should get the benefits you want. This is called a written submission. You can also send the Review Officer more written information and evidence to support your case.

In some cases, the Review Officer may contact you by telephone to get more information or arrange an informal meeting with you.

What happens after you provide your written submission and new evidence to the Review Division depends on whether or not your employer is participating in the review. If your employer is not participating then the review will be assigned to the Review Officer who will be making the decision in your case.

If your employer is participating, the Review Division will send a copy of your submission and evidence to the employer and invite a response. Usually, the employer also has 34 days for the response. The Review Division will send you a copy of the employer’s response, and you can provide your final comments within 14 days. Next, the review will be assigned to the Review Officer who will be making the decision in your case.

How long do I have to wait for a decision?

The Review Officer must make a decision within 150 days after the Review Division receives your Request for Review form. The Review Officer will send the decision letter to you in the mail. If the Review Officer needs more time to make the decision, the Review Officer can ask the Chief Review Officer to extend the time limit. The Chief Review Officer will only agree if your case is complex.

What happens after I receive my Review Division decision?

1) Allow

The Review Officer may allow your review by varying the WorkSafeBC decision, or by simply canceling it.

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The Review Officer may allow your review only in part. If so, you can appeal the issues that you were not successful on to the WCAT, provided that the issue is one that WCAT has the authority to consider. For more information, please see our factsheet entitled *Appeals to the Workers' Compensation Appeal Tribunal*.

2) Refer Back/Return to WorkSafeBC

Sometimes the Review Officer may rule that further investigation is needed before the issue can be decided. If so, he or she may refer the issue back to WorkSafeBC for further investigation and a new decision. The Review Officer may provide directions to WorkSafeBC regarding the additional investigation that needs to be conducted, or the additional factors that need to be considered. Referrals back to WorkSafeBC cannot be appealed to WCAT, but the directions accompanying the referral back can be appealed. Also, new decisions from WorkSafeBC after referrals back are subject to the same review and appeal processes as any other decision of WorkSafeBC.

3) Deny / Vary Against

If the Review Officer does not agree with you then he or she will deny your review, and confirm the WorkSafeBC decision.

Also, the Review Officer can make a decision which actually reduces the benefit that is the subject of the review. So you need to be cautious in requesting a review, especially where you stand to lose more than you might gain.

In most cases, if the Review Officer does not decide in your favour, you can appeal to the WCAT.

Please note that you will only have 30 days to start an appeal to WCAT.

For more information on appeals to the WCAT, please see our factsheet entitled *Appeals to the Workers' Compensation Appeal Tribunal*.

For more information, please contact the Workers' Advisers office nearest to you.