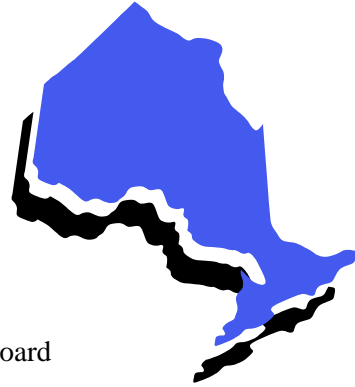


**Construction Employers Coalition
(for WSIB and Health & Safety and Prevention)**



March 20, 2023

Tiffany Turnbull, Vice President Policy
and Consultation Services (A)
Workplace Safety & Insurance Board
200 Front Street West
Toronto ON M5V 3J1

and Frank Veltri, Executive Director,
Appeals
Workplace Safety & Insurance Board
200 Front Street West
Toronto ON M5V 3J1

Dear Ms. Turnbull & Mr. Veltri:

**Re: November 30, 2022, Dispute resolution, appeals
and appeals implementation processes value-for-money audit**

We have reviewed the KPMG WSIB Value for Money Audit (VFMA) of November 30, 2022, publicly released on the Board's website on February 21, 2023. We have noticed that in your web announcement (at **Appendix A**) the Board advises:

We are eager to use the information learned as part of this audit to reassess our current operational design, including practices and policies. We always want to ensure fairness is upheld and dispute resolution and appeals are carried out in an efficient and effective manner and in accordance with the principles of natural justice.

We will act on recommendations in the audit to strengthen our dispute resolution, appeals and appeals implementation processes.

While it seems that the Board will be initiating change as a result of the VFMA, the specific changes are quite unclear. We note that no outreach or consultation approach has been outlined. Prior to implementation, we respectfully suggest that a public consultation is warranted.

As you are aware, in 2012 when the Board was engaged in a similar process, the WSIB released a comprehensive document, "*Consultation Paper: Modernization of the WSIB's Appeals Program*." This document set out many specific recommendations. It was only after considering the viewpoints of the Board's stakeholder public that changes were announced and implemented.

The impact of these changes were later summarized in the May 2014 document "*Modernizing the Workplace Safety and Insurance Board's Appeals Program*." This report described the changes with the Board commenting that they were already achieving, by May 2014, satisfactory results.

Since then, as reported in the Board's annual reports and as noted most recently in the 2021 WSIB Annual Report (at page 4), the Board lauded the continued success and progress with its appeal program.

As we compare the essence of the KPMG suggestions set out in the November 2022 VFMA to the 2012 "Modernization" improvements (excerpted at **Appendix B**), the recommendations appear to be thematically similar. We are most struck however by the conclusion reached by KPMG (at page 5 of the November 30, 2022 VFMA):

Through our review of the WSIB's Dispute Resolution and Appeals Process, we have concluded that the process currently demonstrates "low" value for money.

The conclusion of “low value for money” is perplexing. We observe that in the 2008 Appeals VFMA, released March 10, 2009 and also facilitated by KPMG, that it was found at that time (page 7) that the WSIB Appeals program is “*is delivering value for money for WSIB.*”

In 2010 the appeals program was delivering value for money. Enhancements were developed and implemented in 2012. These enhancements were lauded by the Board right up to the most recent report of 2022. Now, the same auditing firm has concluded there is now only “low” value for money. In our respectful view, what has not been made clear is the primary contributing reasons for this change in opinion.

Respectfully, before change is initiated, we suggest that is necessary the Board clearly outline the reasons for a change in opinion of KPMG, particularity in light of the enhancements introduced after the 2008 VFMA.

More specifically we would strongly recommend the Board engage in an in-depth consultation effort consistent with past practices before any specific adjustments are introduced. We raise this point as the recent past has shown that unilateral service delivery design changes have resulted in subsequent stakeholder push-back. As an example, in 2018 the Board did not consult before implementing a new **WSIB Operating Model**. This resulted in significant stakeholder blowback.

Please reach out to me directly at pariser@rescon.com.

Your truly,



Andrew Pariser, CEC Chair

Appendix A

2/27/23, 3:32 PM

Dispute resolution, appeals and appeals implementation processes value-for-money audit | WSIB



Menu

Dispute resolution, appeals and appeals implementation processes value-for-money audit

Each year, we are required under the Workplace Safety and Insurance Act to conduct a value-for-money audit. The latest audit focused on the dispute resolution, appeals and appeals implementation processes and was conducted by KPMG.

Findings

The audit [Dispute resolution and appeals process value-for-money audit \(PDF\)](#) identified many strengths in our dispute resolution and appeals processes including strong performance metrics, consistent service and current initiatives recommended for continued expansion.

We have an opportunity to improve on these parts of our program and to better align dispute resolution with leading return-to-work and recovery principles so that we can better meet the needs of the people we are here to help.

The audit included a jurisdictional scan and research on leading return-to-work and recovery practices in Canada and internationally. The report outlined recommendations in three key areas: the dispute resolution process, appeals process, and appeals implementation processes, that will, when implemented, deliver added value. Some of the recommendations for implementation include adopting alternative dispute resolution methodology, enforcing timelines, creating stronger links to policy, training and quality assurance, and to better align with leading return-to-work and recovery principles and best practices. You can find the details in the report.

We are eager to use the information learned as part of this audit to reassess our current operational design, including practices and policies. We always want to ensure fairness is upheld and dispute resolution and appeals are carried out in an efficient and effective manner and in accordance with the principles of natural justice.

We will act on recommendations in the audit to strengthen our dispute resolution, appeals and appeals implementation processes.

Appendix B

Workplace Safety and Insurance Board

The New Appeals Program Model

Highlights

The benefits of the modernized appeals program include:

- ✓ A simple and easy-to-complete Intent to Object Form that benchmarks the right to object within six months; invites objecting parties to provide new information that will allow fast-tracking of reconsiderations; and allows for greater coordination and tracking.
- ✓ A more robust reconsideration process by front-line decision makers.
- ✓ Immediate access to file information for objecting parties where reconsideration of decisions is not warranted,
- ✓ Advancement of cases to the Appeals Services Division **only** when the workplace parties submit a “declaration of appeal readiness” through completion of an enhanced Objection Form.
- ✓ No time limit for workplace parties to come forward with their “declaration of appeal readiness” on the enhanced Objection Form.
- ✓ Oral hearings retained for complex entitlement objections.
- ✓ Improvement of the resolution timelines of appeal-ready cases.

The proposed changes below describe the process from the time of a decision by a front-line decision maker to the completion of a final decision by the WSIB Appeals Services Division. See Appendix 1 for a process map of the proposed appeals program, which references the numbered sections below.

Scope

Employer account objections are currently out-of-scope for the proposed program change. Once the new program model has been implemented, work will begin to develop a consistent approach for these objections.