

# **Workplace Safety and Insurance Board**

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Consultation Paper: Modernization of the WSIB's Appeals Program

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## Introduction

As part of our ongoing commitment to service excellence, the WSIB is modernizing its appeals program to ensure the timely, fair, and transparent final resolutions of objections. To achieve this, we need to improve processes from initial front-line decisions to the final decisions of the WSIB's Appeals Services Division.

This report describes the proposed key changes so our stakeholders can provide input prior to implementation.

## The Case for Change

Workplace parties and their representatives deserve a timely and responsive appeals program that produces quality decisions. In recent years, the WSIB's Appeals Services Division's ability to meet that standard has been eroding. Workplace parties/representatives have understandably been asking why the WSIB's appeals process is so lengthy.

In recent years our inventory of unassigned cases has grown to approximately 4,500 cases and resulted in a six-month wait time for assignment of a case to an Appeals Resolution Officer.

Several systemic inefficiencies have been identified as contributing to delays in the current process. These include:

- Incomplete Objection Forms that provide minimal information to support the objection.
- Initial decisions that sometimes do not outline the reasons for a decision clearly enough.
- Absence of a central depository for recording Objection Forms to ensure they are properly addressed and they are referred to the appropriate front-line decision maker or to the Appeals Services Division.
- The front-line decision maker is required to reconsider a decision based on new information and/or a defect in the decision-making process, but the reconsideration process is not as robust as it could be.
- Cases where there are significant information gaps and/or outstanding issues identified by the objecting party at the time of discussion with the Appeals Resolution Officer, or which are recognized by the Appeals Resolution Officer upon their review of the file. This may result in the case going back to front-line decision maker, and may contribute to further delays in the workplace parties receiving a final decision from the WSIB.
- Withdrawal of approximately 20% of appeals after numerous Appeals Services Division staff have spent time dealing with them. In addition, the lack of appeal preparedness leads to late submissions, the postponement of hearings, or post-hearing submissions.
- Significant time investment by Appeals Resolution Officers performing administrative tasks to get cases ready (e.g., calling or writing to the workplace parties/representatives to clarify the issues that are being objected to; requesting outstanding information that should have been obtained prior to referral to the Appeals Services Division; and clarifying why an oral hearing is being requested when the nature of the case suggests it is not warranted).

## 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.

## Key Proposed Features

### 1. Operating Area Decisions

- Decisions will contain improved reasons, a subject line that indicates the nature of the issue being decided upon, and a policy reference.
- A revised appeals paragraph will highlight how to move forward if the workplace party disagrees with the decision.
- The revised appeals paragraph will include instruction on the time limits to appeal and the importance of meeting the time limits.

### 2. Time Limit to Object

- The parties will be required to adhere to the objection time limits set out in section 120 of *Workplace Safety and Insurance Act* to file their objection (i.e., 30 days for return to work and labour market re-entry issues, and six months for all others). However, the Intent to Object Form does not require detailed information. This is in recognition of the fact the objecting party does not yet have access to the claim file record.
- If a party intends to object to a return-to-work issue **and** another issue(s), the WSIB will generally extend the time limit to object to the return-to-work issue to six months.
- The criteria for allowing time limit extensions are outlined in Appendix 3.

### 3. Intent to Object Form

- The Intent to Object Form will be simple and easy to complete, and satisfies the statutory time limit for objections.
- The form will be received and reviewed by a specialty team (Objection Intake Team) to allow greater tracking of objections.
- The form allows the objecting party to provide additional information, leading to expedited reconsideration. Although this step will occur before file access, experience indicates that the workplace party knows his or her case best, and can often plainly describe why he or she is objecting and what new information he or she has.
- The Intent to Object Form and an instruction sheet will be available on the WSIB's website or can be sent out via regular mail upon request. There will also be instructions on how to call the WSIB for assistance to complete the form, if assistance is required.
- Due to technology limitations, on-line completion and submission of the Intent to Object Form will not be possible at this time. However, the WSIB will be launching additional eServices, including electronic file access and the online submission of all forms, in the future.
- See Appendix 2 to review the Intent to Object Form and instruction sheet.

### 4. Objecting to a Decision

- Claim file access will be provided to the objecting party, along with the Objection Form and instruction sheet.

- A Participant Form will be sent at the same time. The participant will be provided 30 days to advise whether or not they will participate.

## **5. Objection Form**

- There will be no time limit to complete the Objection Form.
- The objecting party should complete the Objection Form and fax or mail it to the WSIB when he or she has gathered all the evidence; provided substantive submissions related to his or her objection; and is prepared to be available to attend an oral hearing within 90 days from notice that a hearing is warranted.
- If the objecting party is requesting an oral hearing he or she must provide detailed submissions supporting the request, a list of proposed witnesses along with a “will say” statement for each witness, requests for any witness summonses required (with explanations of why a summons is required), and a request for an interpreter if required.
- Providing as much detail as possible at this stage will allow for a more robust reconsideration through the Objection Intake Team (see 6. below).
- See Appendix 4 to review the Objection Form and instruction sheet.

## **6. Objection Intake Team**

- Completed Objection Forms will be forwarded to the Objection Intake Team, which will review the material and determine if Objection Forms contain substantive new information and/or arguments; if so, objections will be referred back to the front-line decision maker for reconsideration. The front-line decision maker’s manager will have oversight of the result to ensure a full reconsideration takes place.
- If there is a disagreement between the Objection Intake Team and the front-line decision maker (and the decision maker’s manager) with respect to the need for reconsideration, the Objection Intake Team Manager has the authority to conduct the reconsideration.
- When a case is ready to proceed to the Appeals Services Division, the Objection Intake Team will send out a notice to the participating party advising him or her that the Objection Form has been received and that the objecting party is ready to proceed. A copy of the Objection Form and any attachments will be provided to the participating party to allow him or her advance notice to start to prepare. See 7. below regarding file access to an employer when he or she is a participant.

## **7. Access – Employer as Participant**

- The timelines related to employer access are set out in Section 59 of the *Workplace Safety and Insurance Act*.
- File updates will be sent to the worker and initial file access will be sent to the employer. Subsequent updates will be forwarded to the employer, once the question of the worker’s consent to release of any medical information contained in the file updates is resolved.
- The workplace parties will be advised once the file is ready to be referred to the Appeals Services Division.

## 8. Appeals Triage/Disclosure

- The Appeals Administrator will undertake the process of disclosure if it is required.
- The nature and timing of the disclosure process depends on who is objecting and whether there is a participant.
- In two-party objections or dual objections, where both parties request a hearing in writing, additional disclosure will usually not be required. However, if the Appeals Resolution Officer reviews the participant's submission and finds that it contains significant new evidence or arguments, the Appeals Resolution Officer may provide the submission to the objecting party and allow 14 days for rebuttal.
- In two-party objections or dual objections, where one or both parties have requested a hearing, a rebuttal opportunity is not required. Where it is determined that the appeal will nevertheless be resolved through a hearing in writing, each party will be given an additional 21 days to make a more fulsome submission. See 10. below for more information on this issue.

## 9. Methods of Resolution

- Section 119(3) and (4) of the *Workplace Safety and Insurance Act* state that the Board shall give an opportunity for a hearing and the Board may conduct hearings orally, electronically or in writing.
- The Appeals Services Division will resolve an objection either through a hearing in writing or through an oral hearing.
- Generally, an oral hearing will not be held when the facts are not in dispute and/or oral testimony would not add to the information contained in the claim file.
- An oral hearing will be held in more complex cases where the objection is dependent on an issue of credibility that can only be assessed in person, or on direct testimony from the objecting party or material witnesses.
- See Appendix 5 to review the process and criteria for a hearing in writing vs. an oral hearing, including a list of the types of objections where an oral hearing will not be granted.

## 10. Appeals Manager – Determination on Method of Resolution

- If the objecting party or a participant requests an oral hearing, the file will be forwarded to an Appeals Manager to make an administrative decision on method of resolution.
- The decision to grant/not grant requests for oral hearings is an administrative decision of the WSIB and is not appealable to the Workplace Safety and Insurance Appeals Tribunal (WSIAT).
- A request for reconsideration of such a decision can be made to the Appeals Manager who made the decision. There will be no opportunity to request reconsideration by the Executive Director of the Appeals Services Division.
- Both the objecting party and the participant will be allowed a further 21 days to make substantive submissions when oral hearings have been requested and the decision has

been made that cases will be resolved through hearings in writing. There will be no sharing of any additional submissions received and no opportunities for rebuttal.

### **11. Hearing Scheduling**

- Oral hearings will generally be scheduled within three months of the date of the letters from Appeals Managers concluding that an oral hearing is the appropriate method of resolution.
- If the objecting party is unavailable within 90 days, the Appeals Scheduler will provide a further 30 days to secure a suitable hearing date.
- See Appendix 6 to review the consequences surrounding unavailability for oral hearings within 90 plus a further 30 days (120 days).

### **12. Hearing Postponements**

- The exceptional criteria for postponement set out in the current *Appeals System Practice & Procedures* document will remain, as will the consequences surrounding postponements for other than exceptional criteria.
- When hearings have been postponed for any of the exceptional criteria set out in the *Appeals System Practice & Procedures* document, the objecting parties will be expected to be available for hearings within 90 days of the date of the initial hearing.

### **13. Withdrawals**

- Withdrawn cases that re-enter the Appeals Services Division take up the resources of both the workplace parties and the Appeals Services Division and cause significant delays in the appeal process.
- Given the flexibility provided to workplace parties to take as much time as is needed to prepare their case prior to submitting an Objection Form, cases withdrawn from the Appeals Services Division should be rare.
- See Appendix 7 to review the consequences surrounding the withdrawing of objections.

### **14. Returns**

- With more robust reconsideration at the front line, file returns after objections have been registered in the Appeals Services Division should occur only in rare circumstances (e.g., where activity occurring between the time of the reconsideration and the time a case is assigned to an Appeals Resolution Officer has led to a situation where it is not possible for the Appeals Resolution Officer to proceed. This could occur due to significant deficits of information that cannot possibly be overcome by testimony or in cases where there are relevant issues that have not been ruled on by front-line decision makers).
- Returns from the Appeals Services Division will be routed through the Appeals Manager to the Objection Intake Team.



## 15. Oral Hearings

- Issues will be added to the agenda during the 90 days prior to a hearing and at an oral hearing only when the Appeals Administrator/Appeals Resolution Officer is satisfied that the new issue will have an impact on an already-established issue; and when a front-line decision has been made between the date the file was registered in the Appeals Services Division and the date of an oral hearing.
- Documentary evidence will be accepted during the 90 days prior to a hearing and at an oral hearing only if the Appeals Administrator/Appeals Resolution Officer is satisfied that evidence could not have been provided at the time of submission of the Objection Form or at the time of the provision of the participant's submission.

## 16. Resolutions

- A decision made through a hearing in writing will generally be completed within 30 days of assignment to an Appeals Resolution Officer.
- A decision made through an oral hearing will generally be completed within 30 days of the close of the hearing.

## 17. Downside Risk

- There may be cases where an Appeals Resolution Officer identifies a defect in the front-line decision making process that requires reconsideration as prescribed by Section 121 of the *Workplace Safety and Insurance Act*. This section gives the WSIB authority to reconsider any decision made by it any time it considers it advisable to do so.
- This could result in a reversal of the previously granted entitlement decision. This is referred to as the "downside risk."
- The objecting party will not be given the opportunity to withdraw his or her objection in cases where a downside risk has been identified.
- The Appeals Services Division will adopt one of the two proposed options outlined below. Your opinion is requested on the preferred option.

### Option 1 – Applies to Any Decision

- The Objection Form requires a signed declaration recognizing that the Appeals Resolution Officer, in deciding on the issue objected to, may also review **any other entitlement decisions** previously granted. This review could result in the reversal of previously granted entitlements.
- This signed declaration is the objecting party's first notice that the WSIB may reconsider other decisions in the file. A further notice will be provided to the objecting party by the Appeals Resolution Officer, with a 21-day opportunity to provide a submission on the issue.

## Option 2 – Applies to Related Decisions

- If an Appeals Resolution Officer identifies findings of fact that have negative implications for other prior entitlement decisions **that relate to the issues that have been objected to**, they will expand the issue agenda to reconsider those prior entitlement decisions.
- The Objection Form requires a signed declaration recognizing that the Appeals Resolution Officer, in deciding on the issue objected to, may also reconsider related prior entitlement decisions.
- This signed declaration is the objecting party's first notice that the Appeals Resolution Officer may reconsider related decisions in addressing issues that are being objected to.
- Where an issue agenda is expanded by an Appeals Resolution Officer, further notice will be provided to the objecting party with a 21-day opportunity to provide a submission on the related issue.

## Invitation for Written Submissions

The WSIB welcomes input regarding the proposed changes to its appeals program. Submissions are invited from all interested parties by **July 13, 2012**. Specifically, the WSIB welcomes comments on:

1. The proposed process changes
2. The forms
3. The instruction sheets (for completing the forms).

Please send your submission to:

**Slavica Todorovic**  
**Executive Director, Appeals Services Division**  
**200 Front Street West**  
**Toronto ON M5V 3J1**

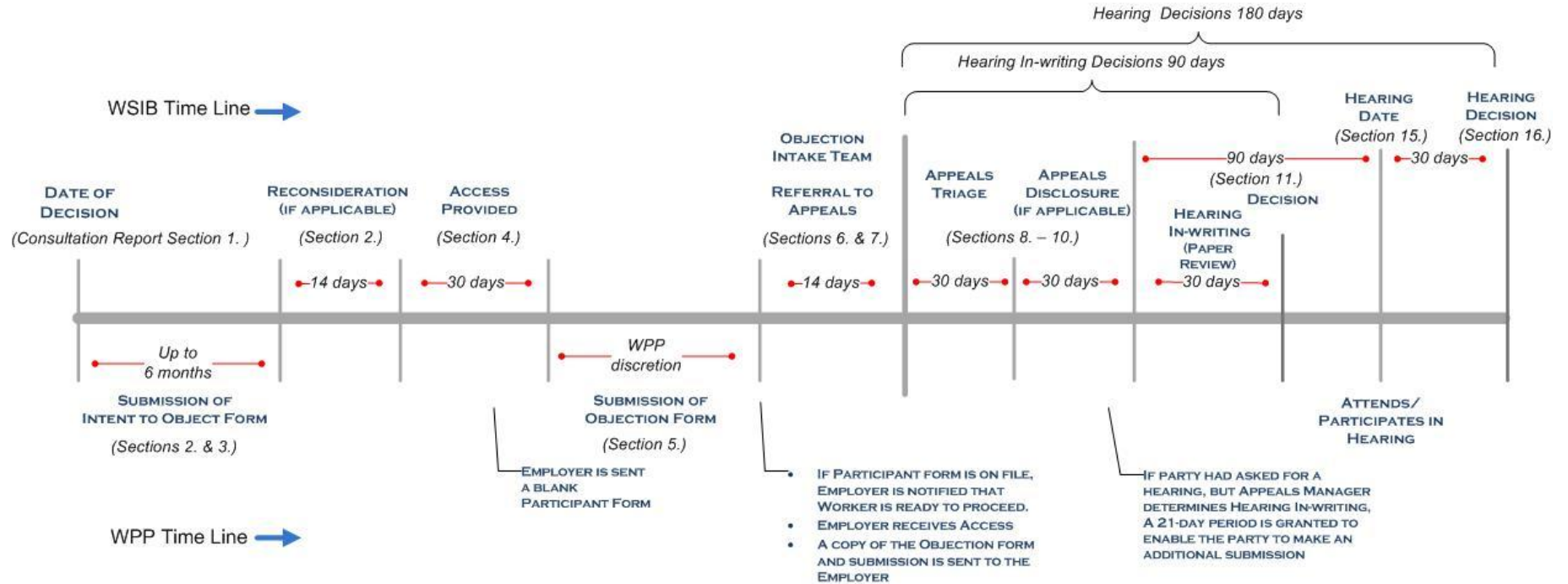
or by fax to: 416-344-3595

or by e-mail to: [Nicole\\_Mclean@wsib.on.ca](mailto:Nicole_Mclean@wsib.on.ca)

The submissions will be reviewed and process adjustments made in preparation for the implementation of the new appeals program, currently scheduled for September 4, 2012.

The WSIB thanks all those individuals who choose to take the time to provide comment on this very important initiative.

## Appendix 1: Proposed Appeals Program – Process Map







## Employer Instruction Sheet: Intent to Object to a WSIB Decision (Entitlement)

### *If you disagree with a WSIB decision in a worker's claim.....*

- If you don't understand the reasons for the decision, contact the decision maker for an explanation of the issue(s) and what new information might change the decision.
- If you are still dissatisfied with the decision, you should complete and submit the Intent to Object Form along with any additional information you want us to consider.
- You can find a link to the Intent to Object Form at the end of this information sheet.
- **If you need assistance, please call us at 416-344-1000 or 1-800-387-0750**
  - we will fax or mail the Intent to Object Form to you if you experience difficulties accessing or printing the Form
  - we will assist you with completing the Form.

### Time Limits to Object

There are legislated time limits for submitting an objection. In order to meet the time limits, the WSIB must receive your Intent to Object Form by the time limit date given in the decision letter.

### ***Completing the Intent to Object Form – All sections of the form must be completed.***

We recommend you complete the Intent to Object Form on line as this ensures your information is easy to read. Before printing the completed Form, please check to be sure the worker's name and claim number are correct. If you are completing the Form by hand, please PRINT using black ink.

**DO NOT complete this Form if you disagree with a decision relating to your employer account. Please contact Employer Account Services at 416-344-1000 or 1-800-387-0750 for information on the objection process for employer account decisions.**

### A – Claim Identifiers

The claim number is the worker's WSIB identifier. Please be sure to enter the correct claim number and worker's name. An incorrect claim number will delay the Intent to Object Form reaching the claim file.

### B – Objecting Party

Any of the workplace parties can object to a WSIB decision. In most cases, the workplace parties are the worker, the injury employer, or their authorized representatives. Please mark the box that applies.

### C – General Information

It is important that the WSIB always has the most current contact information for the worker and employer. Please check the address on the decision letter to make sure it is correct and complete. If changes are

required to your address, contact person and/or telephone number(s), please mark the 'no' box and provide us with the correct information. If no changes are required, simply mark the 'yes' box. If changes are required, you must also contact Employer Account Services to update your employer account file record.

If you are a transfer-of-cost employer, or their authorized representative, please complete this section (Section C) with respect to the transfer-of-cost employer's address and contact information.

## D - Representation

The WSIB does not require that you have a representative to submit the Intent to Object Form or to handle your objection. You may represent yourself or use a representative of your choice. Please complete the box that applies. If you have a representative, the WSIB needs their current contact information and must have a [Direction of Authorization](#) in the claim file.

If you have fewer than 100 employees, the **Office of the Employer Adviser (OEA)** provides representation services at no cost. The OEA can be reached at 1-800-387-0774.

## E - Intent to Object

A decision letter may contain a decision on more than one entitlement issue and you may disagree with the decision on one or more of the issues. You should do your best to indicate the issue(s) you are objecting to and clearly indicate the date of the decision letter which contains the decision on that issue.

If you disagree with decisions made in more than one claim for the same worker, you should submit an Intent to Object Form under each claim number in order to meet the objection time limits and identify the issue(s) in dispute in each claim.

## F - New Information/Reconsideration

The WSIB has the authority under Section 121 of the *Workplace Safety and Insurance Act* to reconsider any decision "at any time if it considers it advisable to do so". The most common reason for changing a decision is new information. A referral to the Appeals Services Division may not be necessary if we are able to reconsider and change the decision with new information you provide.

**To ensure the WSIB receives your Intent to Object Form within the time limit, do not delay sending the Intent to Object Form because you are waiting for new information.**

The decision letter(s) will indicate the information that was considered relating to the issue(s) decided on, and may indicate the type of information that could change the decision. This is your opportunity to review the decision letter and provide us with new information that may change the decision on the issue(s) you have indicated in Section E. We may be able to reconsider and change the decision with the new information you provide. We will inform you of the outcome of the review. If the decision(s) remains unchanged, you will have additional opportunity to submit information for reconsideration, after you receive copies of the claim file documents.

For this section, new information refers to new documents that were not previously sent to the WSIB (e.g. a copy of a recent third party medical assessment or an ergonomic assessment report).

You can submit new information at any time before the claim is referred to the Appeals Services Division. A referral to the Appeals Services Division may not be necessary if we are able to reconsider and change the decision with the new information you provide. The claim will not be referred to the Appeals Services Division until you are satisfied that we have considered all available information and you tell us you are ready to proceed with your objection.

To be sure that we have received your new information, if any, please mark the applicable box. When you are sending in new information, please tell us the number of pages (not including the Form). Please put the worker's name and claim number on each page.

### **G – Reasons for the Objection**

Please review the decision letter(s) which contain the decision(s) on the issue(s) listed in Section E. This section (Section G) is your opportunity to provide, in your own words, your reasons for objecting to the decision(s). Your explanation may bring out new case facts the decision maker was not aware of and may result in a change in the decision.

You should explain why you disagree with the decision for each issue you are objecting to. If you are attaching new information (Section F), your explanation should include references to the new information and how it supports your objection. If you have submitted an Intent to Object Form in a different claim for this worker, please provide that claim number in this section (Section G). When the issues in dispute are related, all claims will be reviewed if the decisions are reconsidered.

If the space provided is not enough, please attach additional pages. Please tell us the number of pages added (not including the Form) and put the worker's name and claim number on each page to ensure your full explanation reaches the claim file. As with the Form, we recommend you submit typewritten pages.

### **H - Signature**

The Intent to Object Form is considered valid only when it bears the signature of an authorized participant in the case. "Employer" participants may include the injury employer, a transfer-of-cost employer, or their authorized representative. Please provide the name of the objecting party and be sure to add the applicable signature and date before submitting the completed Form to the WSIB.

#### ***Submitting your [Intent to Object Form](#)***

When you have completed [all](#) sections and signed the Intent to Object Form, **send it to the WSIB by fax at 416-344-4684 or 1-888-313-7373** or mail it to:

Workplace Safety and Insurance Board  
200 Front Street West  
Toronto, ON M5V 3J1



***What happens after the WSIB receives your Intent to Object Form?***

When we receive your Intent to Object Form, we will consider any new information provided and advise you of the outcome of that review. If the decision remains unchanged, or you did not submit any new information, we will advise the worker of your objection and send a copy of the claim file to the worker. The worker has the right to object to the release of relevant health care information, and must notify the WSIB within 21 days if he/she objects.

We will send you a copy of relevant file documents along with an Objection Form and additional information on how to proceed with your objection, when

- 21 days have elapsed and the worker did not submit an objection to the release of relevant health care information, or
- the worker's objection to the release of relevant health care information is resolved/decided. The worker's objection to the release of this information has to be addressed by the Workplace Safety and Insurance Appeal Tribunal (WSIAT). WSIAT is independent from the WSIB.

If you have previously received a copy of the claim file, you will only receive documents added to the file after the date of your last request. You should receive the file documents within 8 to 12 weeks.

When you receive a copy of relevant claim file documents, you should review those documents and the relevant WSIB policies in the [Operational Policy Manual \(OPM\)](#) to decide whether to continue with your objection. If you have sent us all available information and you are still not satisfied with the decision, you can proceed with your objection to the Appeals Services Division.

## Worker Instruction Sheet: Intent to Object to a WSIB Decision

### *I don't agree with a WSIB decision....What should I do?*

- If you don't understand the reasons for the decision, contact the decision maker for an explanation of the issue(s) and what new information might change the decision.
- If you are still dissatisfied with the decision, you should complete and submit the Intent to Object Form along with any additional information you want us to consider.
- You can find a link to the Intent to Object Form at the end of this instruction sheet.
- **If you need assistance, please call us at 416-344-1000 or 1-800-387-0750**
  - we will fax or mail the Intent to Object Form to you if you experience difficulties accessing or printing the Form.
  - we will assist you with completing the Form.

### Time Limits to Object

There are legislated time limits for submitting an objection. In order to meet the time limits, the WSIB must receive your Intent to Object Form by the time limit date given in the decision letter.

### *Completing the Intent to Object Form – All sections of the form must be completed.*

We recommend you complete the Intent to Object Form on line as this ensures your information is easy to read. Before printing the completed Form, please check to be sure your claim number is correct. If you are completing the Form by hand, please PRINT using black ink.

#### A – Claim Identifiers

The claim number is your WSIB identifier, along with your name. Please be sure to enter the correct claim number. An incorrect claim number will delay the Intent to Object Form reaching your claim file.

#### B – Objecting Party

Any of the workplace parties can object to a WSIB decision. In most cases, the workplace parties are the worker, the injury employer, or their authorized representatives. Please mark the box that applies.

#### C - General Information

It is important that the WSIB always has the most current contact information for the worker and injury employer. Please check the address on the decision letter to make sure it is correct and complete. If changes are required to your address and/or telephone number(s), please mark the 'no' box and provide us with the correct information. If no changes are required, simply mark the 'yes' box.

If you are the dependent of a deceased worker, or authorized representative of a dependent, please complete Section C with respect to the dependant's address and contact information.

## D - Representation

The WSIB does not require that you have a representative to submit the Intent to Object Form or to handle your objection. Please complete the box that applies. If you have a representative, the WSIB needs their current contact information and must have a [Direction of Authorization](#) for that representative in your claim file.

Some workers find it helpful to have a representative assist them with their WSIB case. Free advice and representation may be available through the following organizations:

- If you are a unionized employee, your **Union Local** may assist you. If you are having trouble getting help from your union local, you can contact the **Ontario Federation of Labour (OFL)**. The toll free number for the OFL is 1-800-668-9138.
- If you do not belong to a union, the **Office of the Worker Adviser (OWA)** may be able to help you. The toll free number for the OWA is 1-800-435-8980 (English) or 1-800-661-6365 (French).
- You may qualify for assistance from the **Community Legal Clinics**. The toll free number for **Legal Aid** in Ontario is 1-800-668-8258 (outside Toronto) or 416-979-1446 (Toronto area).

## E – Intent to Object

A decision letter may contain a decision on more than one entitlement issue and you may disagree with the decision on one or more of the issues. You should indicate the issue(s) you are objecting to and clearly indicate the date of the decision letter which contains the decision on that issue.

If you disagree with decisions made in more than one claim, you should submit an Intent to Object Form under each claim number in order to meet the objection time limits and identify the issue(s) in dispute in each claim.

## F – New Information/Reconsideration

The WSIB has the authority under Section 121 of the *Workplace Safety and Insurance Act* to reconsider any decision “at any time if it considers it advisable to do so”. The most common reason for changing a decision is new information. A referral to the Appeals Services Division may not be necessary if we are able to reconsider and change the decision with new information you provide.

**To ensure the WSIB receives your Intent to Object Form within the time limit, do not delay sending the Intent to Object Form because you are waiting for new information.**

The decision letter(s) will indicate the information that was considered relating to the issue(s) decided on, and may indicate the type of information that could change the decision. This is your opportunity to review the decision letter and provide us with new information that may change the decision on the

issue(s) you have indicated in Section E. We may be able to reconsider and change the decision with the new information you provide. We will inform you of the outcome of the review. If the decision(s) remains unchanged, you will have additional opportunity to submit information for reconsideration, after you receive copies of the claim file documents.

For this section, new information refers to new documents that were not previously sent to the WSIB (e.g. a copy of a recent specialist report, or documents confirming employment or wage information).

You can submit new information at any time before your claim is referred to the Appeals Services Division. A referral to the Appeals Services Division may not be necessary if we are able to reconsider and change the decision with new information you provide. Your claim will not be referred to the Appeals Services Division until the front-line has considered all information provided and you tell us you are ready to proceed with your objection.

To be sure that we have received your new information, if any, please mark the applicable box. When you are sending in new information, please tell us the number of pages (not including the Form). Please put your name and claim number on each page.

### **G - Reasons for the Objection**

Please review the decision letter(s) which contain the decision(s) on the issue(s) listed in Section E. This section (Section G) is your opportunity to provide, in your own words, your reasons for objecting to the decision(s). Your explanation may bring out new case facts the decision maker was not aware of and may result in a change in the decision.

You should explain why you disagree with the decision for each issue you are objecting to. If you are attaching new information (Section F), your explanation should include references to the new information and how it supports your objection.

If you have submitted an Intent to Object Form in a different claim, please provide that claim number in this section (Section G). When the issues in dispute are related, all claims will be reviewed if the decisions are reconsidered.

To protect your privacy, please do not make reference to other claim number(s) for injuries/illnesses that occurred while working for a different employer.

If the space provided is not enough, please attach additional pages. Please tell us the number of pages added (not including the Form) and put your name and claim number on each page to ensure your full explanation reaches your claim file. As with the Form, we recommend you submit typewritten pages.

## H - Signature

The Intent to Object Form is considered valid only when it bears the signature of an authorized participant in the case. “Worker” participants include the worker, the dependent(s) of a deceased worker, or the authorized worker/dependent representative. Please provide the name of the objecting party and be sure to add the applicable signature and date before submitting the completed Form to the WSIB.

**Submitting your [Intent to Object Form](#)** (link to form)

When you have completed all sections and signed the Intent to Object Form, send it to the WSIB **by fax at 416-344-4684 or 1-888-313-7373** or mail it to:

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200 Front Street West  
Toronto, ON M5V 3J1

### ***What happens after the WSIB receives my Intent to Object Form?***

When we receive your Intent to Object Form, we will consider any new information provided and advise you of the outcome of that review. If the decision remains unchanged, or you did not submit any new information, we will send you a copy of your claim file along with an Objection Form and additional information on how to proceed with your objection. If you have previously received a copy of your claim file, you will only receive documents added to your file after the date of your last request.

You should review the claim file documents to better understand how the decision was made. You should also review the relevant WSIB policies which are in the [Operational Policy Manual \(OPM\)](#). The claim file information and the policies will help you decide whether to continue with your objection. If you have sent us all available information and you are still not satisfied with the decision, you can then proceed with your objection to the Appeals Services Division.

## **Appendix 3: Time Limit to Object Extension Criteria**

### **Criteria to be Applied in Determining Time Limit Extensions**

Criteria to be considered for delays beyond the statutory time limit include:

- Serious health problems (experienced by parties or parties' immediate families) or parties leaving the province/country due to the ill health or the death of family members;
- Whether there was actual notice of the time limit. This acknowledges that as of January 1, 1998, decisions specifically refer to the time limits but prior to January 1, 1998, decisions do not;
- Whether there are other issues in the appeal which were appealed within the time limit which are so intertwined that the issues being objected to within the time limit cannot reasonably be addressed without waiving the time limit to appeal on closely related issues;
- Whether the parties were able to understand the time limit; and
- Whether refusal to extend time limits could result in substantial miscarriages of justice due to defects or errors in prior entitlement decisions or decision-making processes.

All decisions to extend the time limits will be based on the merits and justice of individual cases.

## Appendix 4: Objection Forms and Instruction Sheets

### Objection Form (Appeals)

Worker/Dependant

Please read the **Worker Instruction Sheet: Objection Form** before completing this form.  
Please PRINT using black ink.

#### 1. General Information

<b>Worker Name</b>			<b>Claim No.</b>
Address	City/Town	Province	Postal Code
Telephone No: (Day) ( )	Telephone No: (Evening) ( )	Language <input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Other _____	
Is this a new address? <input type="checkbox"/> Yes <input type="checkbox"/> No			

#### 2. Appeal Readiness

All sections must be completed before the claim can be referred to the Appeals Services Division.

YES, all available information has been submitted and considered by the decision maker, and all related entitlement issues have been decided. I continue to disagree with the decision(s) indicated below.

No, I do not object to the release of relevant health care information contained in my WSIB claim file to my employer. I understand that this will override any earlier objection that I may have had to the release of this information.

**Note:** If you object to the release of health care information to the employer, you are not yet ready to proceed to the Appeals Services Division. Please complete the *Objection to Employer Access* form, enclosed with your Access package. When a decision is made on the release of these documents, you should complete this Objection Form.

#### 3. Objection: I am ready to proceed with my objection to the following decision(s)

Date of Decision Letter(s)	Issue(s) in Dispute

#### 4. Submission – Explain your reasons for your objection and specify the type and duration of benefits and/or services you are seeking, including dates.

My position on the issue(s) in dispute is contained in the attached submission. Number of pages \_\_\_\_\_.

I have no further information to add. My position is outlined in my previous submission(s) dated: \_\_\_\_\_ Please provide date(s)

My position on the issue(s) in dispute is provided below.

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**Objection Form (Appeals)**  
Worker/Dependant



**5. Representation**

Please check one:  I will represent myself in the objection process.  I have a representative to handle my objection.

**If you are represented** - - A signed *Direction of Authorization* for this representative must be in the claim file

Representative's Name		Organization	
Address	City/Town	Province	Postal Code
Telephone No: (Day)	Telephone No: (Evening)	Fax No:	

**6. Appeals Services Division Resolution Method - You must make a selection.**

Please indicate the method of resolution that you wish the Appeals Services Division to consider to resolve your objection. The method of resolution to address an objection is an administrative decision of the WSIB and is not appealable to the Workplace Safety and Insurance Tribunal (WSIAT). (The *Appeals System Practice & Procedures* document available at [www.wsib.on.ca](http://www.wsib.on.ca) provides additional information to assist you answering the questions below.)

**Hearing in Writing:** The Appeals Resolution Officer will make a decision based on the information contained in the claim file and any additional submission(s) provided.

-- OR --

**Oral Hearing:** An oral hearing will generally be scheduled within 90 days from the date the WSIB confirms an oral hearing is required.



**Objection Form**  
Worker/Dependant

I am requesting an Oral Hearing for the following reasons:

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**7. Complete this section only if you are requesting an Oral Hearing.**

Any Witness(es)?  YES  NO

If yes, please identify the witness(es) and provide a document that outlines the testimony that will be provided ("will say") for each witness.

Is a summons required?  YES  NO  UNKNOWN

If yes, please specify which witness(es) requires a summons and the reason.

Is an interpreter needed?  YES  NO

If yes, please specify the language and specific dialect.

**8. Declaration and Acknowledgement of Risk**

- I understand the WSIB will make the final decision on the method used to resolve my objection.
- If the WSIB agrees that an Oral Hearing is required, I (and my representative) will be prepared to attend a hearing within 90 days.
- Downside risk (to be determined)

By signing below, I agree with all of the above statements.

Signature of Worker/Dependant	Date
Signature of Authorized Representative (if applicable)	Date

Please complete all sections and sign where indicated before submitting the Form and your submission by fax to **416-344-4684** or **1-888-313-7373** or by mail to:

Workplace Safety & Insurance Board, 200 Front Street West, Toronto, ON M5V 3J1

## Worker Instruction Sheet: Objection Form

You now have a copy of the documents from your claim file(s) relevant to the decision(s) you are objecting to. Your package also includes an **Objection Form** and an **Objection to Employer Access** form. Please review the claim file(s) documents along with the relevant policies to understand how the decision(s) was made. WSIB policies are in the Operational Policy Manual available on our website at [www.wsib.on.ca](http://www.wsib.on.ca). If you are still dissatisfied with the decision(s), you may proceed with your objection to the WSIB's Appeals Services Division by completing the Objection Form.

**There is no time limit for returning the Objection Form. All sections of the form must be completed before your case can be referred to the Appeals Services Division.**

### ***Are you ready to submit the Objection Form?***

You are ready to proceed with your objection when:

- you have submitted an Intent to Object Form for all issues you wish to include in your objection, and
- you are satisfied that all relevant entitlement issues have been decided and all the available case information has been considered by the Front-line decision maker, and
- you do not object to the release of relevant health care information to your employer or your objection to the release of that information has been resolved, and
- you have arranged for a representative to handle your objection, if you wish to have one, and
- if you requested an oral hearing, you and your representative, if you have one, must be available to attend the hearing within 90 days of notice that an oral hearing will be provided, and
- you understand that if your request for an oral hearing is not accepted, the objection will be resolved based on the claim file record, the information contained in the Objection Form, any additional submission you wish to provide in support of your objection, and the employer's response submission, if they are participating.

### **Completing the Objection Form– All applicable sections of the form must be completed.**

When completing the Objection Form, please PRINT using black ink. If you need assistance when completing this form, please call us at 416-344-1000 or 1-800-387-0750.

#### **1. General Information**

It is important that the WSIB always has your most current contact information so we ask you to provide your current address and phone number(s). If you indicate this is a new address, we will update our records.

#### **2. Appeal Readiness**

##### **All Relevant Entitlement Issues Decided**

You may not be ready to proceed with your objection if you are claiming entitlement for other issues that the decision maker has not considered or has not yet decided on in this or any other claim. You should contact the Front-line decision maker to clarify if these other issues could alter the decision with which you disagree. All

relevant entitlement issues must be decided on and the original decision reconsidered by the Front-line decision maker before you are ready to proceed with your objection to the Appeals Services Division.

Note: If you disagree with a decision on a new entitlement issue, you must submit an *Intent to Object* form for that issue before the time limit date indicated in the decision letter. If you wish to add that issue to your objection, you should not complete the Objection Form until the Front-line decision maker has considered all information relevant to that new issue. You can obtain the *Intent to Object Form* on our website, [www.wsib.on.ca](http://www.wsib.on.ca).

#### **New Information**

If you have significant new information not seen by the Front-line decision maker, please send it to the decision maker to consider. Do not complete the Objection Form until this is done since this new information may result in a change in the decision to which you object. You will be advised of the outcome of the reconsideration.

#### **Employer Access in Worker Appeals**

According to the *Workplace Safety and Insurance Act*, your employer has a right to participate in your objection and to receive copies of relevant claim file documents, including relevant health care information. If your employer chooses to participate, we require your consent to release relevant health care information from this claim file and all other relevant claims that may be included in your package. If you have no objection to the release of this information to your employer you can indicate this on the Objection Form.

If you object to the release of relevant health care information to your employer, you must first complete the *Objection to Employer Access* form enclosed with your package. If you object to the release of relevant health care information, the matter has to be addressed by the Workplace Safety and Insurance Appeal Tribunal (WSIAT). WSIAT is independent from the WSIB. Your objection cannot proceed until your objection to the release of relevant health care information is resolved by WSIAT.

When your objection to the release of relevant health care information to your employer has been resolved, you can complete the Objection Form to proceed with your objection.

### **3. Objection**

A decision letter may contain a decision on more than one entitlement issue and you may disagree with the decision on one or more of the issues. You should indicate only the issue(s) you continue to object to and the date of the decision letter which contains the decision on that issue. If you are objecting to decisions in more than one claim, please indicate (in Section 3) the applicable claim number for each issue.

To protect your privacy, please do not include the claim number(s) for injuries/illnesses that occurred while working for a different employer.

We encourage you to include all related issues so they can be considered at the same time. Please review Section 2 to ensure you are ready to proceed with all of the issues you want to include in your objection.

#### 4. Submission

Your submission should provide your reasons for objecting to the decisions on the issue(s) you have indicated in Section 3, and the outcome you are seeking. You should indicate the additional benefits and/or services you are seeking, specifying the type, level, and duration of benefits and/or services, including dates. We encourage you to provide a detailed submission outlining your position on all the issues included in your objection. Please tell us the number of pages in your submission (not including the Form) so we can be sure we received your full submission. Please put your name and claim number on each page of your submission.

The final decision on the resolution method used by the ARO will be made after your fully completed Objection Form and your file is received in the Appeals Services Division. Please refer to Section 6 for more details. Providing a submission with your Objection Form will ensure you are ready to proceed according to either resolution method. If the WSIB determines your objection can be decided by a hearing in writing, your submission will be considered together with the information contained in the claim file, and the employer's response submission, if they are participating.

If you feel your position on the issues included in your objection is already contained in the claim file, you may choose not to attach a further submission. We have also provided space on the Objection Form, which you may use to provide your position on the issue(s) in dispute.

Please mark the applicable box on the Objection Form so we can verify that we have received everything you intend to submit to support your objection.

#### 5. Representation

The WSIB does not require that you have a representative to have your objection considered in the Appeals Services Division. If you have a representative, the WSIB needs their current contact information.

If you plan to have a representative to handle your objection, you are not ready to proceed to the Appeals Services Division until the WSIB has received a *Direction of Authorization* in this claim, AND your representative is also ready to proceed with your objection.

Free advice and representation may be available through the following organizations:

- If you are a unionized employee, your **Union Local** may assist you. If you are having trouble getting help from your union local, you can contact the **Ontario Federation of Labour (OFL)**. The toll free number for the **OFL** is 1-800-668-9138.
- If you do not belong to a union, the **Office of the Worker Adviser (OWA)** may be able to help you. The toll free number for the OWA is 1-800-435-8980 (English) or 1-800-661-6365 (French).
- You may qualify for assistance from the **Community Legal Clinics**. The toll free number for **Legal Aid** in Ontario is 1-800-668-8258 (outside Toronto) or 416-979-1446 (Toronto area).

## 6. Appeals Services Division Resolution Methods

When a case is referred to the Appeals Services Division, the Appeals Resolution Officer (ARO) will address your objection in one of two ways.

**Hearing in Writing:** This resolution method provides for an expedited ARO decision as the decision is based on the review of the information in the claim file. If your employer is participating, they may make a written submission for the ARO to consider. You will be provided with a copy of their submission. If the ARO determines that the employer's submission contains such significant new evidence or argument, you will have 14 days to make a rebuttal submission. Once all submissions have been received, the ARO will generally make the decision within 30 calendar days.

**Oral Hearing:** Most objections can and should be resolved without the need for an oral hearing. An oral hearing is typically required for cases with conflicting/inconsistent information, multiple issues or complex fact situations where resolution of the objection is dependent on

- an issue of credibility which can only be properly assessed in person, or
- direct testimony from the objecting party or material witness (es).

When making a determination on whether an oral hearing is required, the WSIB will also have regard for the ability of an unrepresented worker to effectively present his/her position in writing.

If you request an oral hearing, you must explain in detail on the Objection Form why you are requesting an oral hearing versus a decision by a hearing in writing. The method of resolution to address an objection is an administrative decision of the WSIB and is not appealable to the Workplace Safety and Insurance Tribunal (WSIAT). If you are requesting an oral hearing, you will be notified in writing if your request is granted, and if not, why not.

If the WSIB determines that an oral hearing is required, it will generally be scheduled within 90 days. At the hearing, you will have an opportunity to present your case. You, and possibly others, will be required to provide testimony about the issue(s) in dispute. The ARO will generally complete the decision within 30 calendar days from the date the hearing is completed.

If you, or your representative, are not available to attend an oral hearing within 90 days, the case will be withdrawn from the Appeals Services Division since your unavailability will be seen as not being ready to proceed with your objection. If you wish to pursue your objection at a later date, you will be required to re-submit the Objection Form.

For more detailed information about the resolution methods and the consequences of not being ready to attend an oral hearing within 90 days, please review the *Appeals System Practice & Procedures* document, available on our website at [www.wsib.on.ca](http://www.wsib.on.ca).

### 7. Additional Questions

If you indicate a preference for resolution by an oral hearing, you must answer all of the questions in this section. The *Appeals System Practice & Procedures* document provides additional information to assist you with answering these questions.

### 8. Declaration and Acknowledgement of Risk

<<See 17. In Consultation Paper for two options.>>

By signing and submitting this form, you are confirming you are ready to proceed with your objection. The WSIB requires your signature, and your representative's signature if applicable, before your case can be referred to the Appeals Services Division.

#### ***Submitting the Objection Form***

Once you have completed all sections of the Objection Form and signed where indicated, please send the form (and any attachments) to the WSIB by **fax to 416-344-4684 or 1-888-313-7373** or by mail to:

Workplace Safety and Insurance Board  
200 Front Street West  
Toronto, ON M5V 3J1

### Objection Form (Entitlement)

Employer

Please read the **Employer Instruction Sheet: Objection Form** before completing this form.  
Please PRINT using black ink.

1. General Information			
Worker Name		Claim No.	
Employer's Name		Firm No.	
Address		City/Town	Postal Code
Telephone (Day) ( )	Telephone (Evening) ( )	Language <input type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Other _____	

**2. Appeal Readiness**  
All sections must be completed before the claim can be referred to the Appeals Services Division.

YES, all available information has been submitted and considered by the decision maker. I continue to disagree with the decision(s) indicated below.

**3. Objection: I am ready to proceed with my objection to the following decision(s):**

Date of Decision Letter(s)	Issue(s) in Dispute

**4. Submission – Explain your reasons for your objection and specify the results you are seeking, including dates where applicable.**

- My position on the issue(s) in dispute is contained in the attached submission. Number of pages \_\_\_\_\_.
- I have no further information to add. My position is outlined in my previous submission(s) dated: \_\_\_\_\_ Please provide date(s).
- My position on the issue(s) in dispute is provided below.

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**Objection Form (Entitlement)**  
Employer



**5. Representation**

Please check one:  The employer will represent itself in the objection process.  The employer has a representative for the objection process.

**If you are represented** - A signed *Direction of Authorization* for this representative must be in the claim file

Representative's Name		Organization
Address	City/Town	Postal Code
Telephone (Day)	Telephone (Evening)	Fax No:

**6. Appeals Services Division Resolution Method - You must make a selection.**

Please indicate the method of resolution that you wish the Appeals Services Division to consider to resolve your objection. The method of resolution to address an objection is an administrative decision of the WSIB and is not appealable to the Workplace Safety and Insurance Tribunal (WSIAT). (The *Appeals System Practice & Procedures* document available at [www.wsib.on.ca](http://www.wsib.on.ca) provides additional information to assist you answering the questions below.)

**Hearing in Writing:** The Appeals Resolution Officer will make a decision based on the information contained in the claim file and any additional submission(s) provided.

-- OR --

**Oral Hearing:** An oral hearing will generally be scheduled within 90 days from the date the WSIB confirms an oral hearing is required.

**I am requesting an Oral Hearing for the following reasons:**

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**Objection Form (Entitlement)**  
Employer

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**7. Complete this section only if you are requesting an Oral Hearing.**

Any Witness(es)?  YES  NO  
 If yes, please identify the witness(es) and provide a document that outlines the testimony that will be provided ("will say") for each witness.

Is a summons required?  YES  NO  UNKNOWN  
 If yes, please specify which witness(es) requires a summons and the reason.

Is an interpreter needed?  YES  NO  
 If yes, please specify the language and specific dialect.

**8. Declaration and Acknowledgement of Risk**

- I understand the WSIB will make the final decision on the method used to resolve my objection.
- If the WSIB agrees that an Oral Hearing is required, I (and my representative) will be prepared to attend a hearing within 90 days.
- Downside risk (to be determined).

By signing below, I agree with all of the above statements.

Signature of Employer	Date
Signature of Authorized Representative (if applicable)	Date

Please complete all sections and sign where indicated before submitting by fax to **416-344-4684** or **1-888-313-7373**, or mail to:  
 Workplace Safety and Insurance Board, 200 Front Street West, Toronto, ON M5V 3J1

## Employer Instruction Sheet: Objection Form

You now have a copy of the documents from the claim file(s) relevant to the decision(s) you are objecting to. Your package also includes an **Objection Form**. Please review the claim file documents along with the relevant policies to understand how the decision(s) was made. WSIB policies are in the Operational Policy Manual available on our website at [www.wsib.on.ca](http://www.wsib.on.ca). If you are still dissatisfied with the decision(s), you may proceed with your objection to the WSIB's Appeals Services Division by completing the Objection Form.

**There is no time limit for returning the Objection Form. All sections of the form must be completed before your case can be referred to the Appeals Services Division.**

### ***Are you ready to submit the Objection Form?***

You are ready to proceed with your objection when:

- you are satisfied that all relevant entitlement issues have been decided and all the available case information has been considered by the front-line decision maker, and
- you have arranged for a representative to handle your objection, if you wish to have one, and
- if you requested an oral hearing, you and your representative, if you have one, must be available to attend the hearing within 90 days of notice that an oral hearing will be provided, and
- you understand that if your request for an oral hearing is not accepted, the objection will be resolved based on the claim file record, the information contained in the Objection Form, any additional submission you wish to provide in support of your objection, and the worker's response submission, if they are participating.

**DO NOT complete this Objection Form if you disagree with a decision relating to your employer account. Please contact Employer Account Services at 416-344-1000 or 1-800-387-0750 to request the Objection Form used for objections to employer account decisions.**

### ***Completing the Objection Form– All applicable sections of the form must be completed.***

When completing the Objection Form, please PRINT using black ink. If you need assistance when completing this form, please call us at 416-344-1000 or 1-387-0750.

#### **1. General Information**

It is important that the WSIB always has your most current contact information. If there has been a change, you must also notify Employer Account Services to update your employer account file record.

#### **2. Appeal Readiness**

All sections must be completed before the claim can be referred to the Appeals Services Division.

#### **New Information**

If you have significant new information not seen by the front-line decision maker, please send it to the decision maker to consider. Do not complete the Objection Form until this is done since this new information may result in a change in the decision to which you object. You will be advised of the outcome of the reconsideration.

Note: If you disagree with a decision on a newly-decided entitlement issue, you must submit an *Intent to Object* Form for that issue before the time limit date indicated in the decision letter. If you wish to add that issue to your objection, you should not complete the Objection Form until the front-line decision maker has considered all information relevant to that new issue. You can obtain the *Intent to Object* form on our website, [www.wsib.on.ca](http://www.wsib.on.ca).

### 3. Objection

A decision letter may contain a decision on more than one entitlement issue and you may disagree with the decision on one or more of the issues. You should indicate the issue(s) you continue to object to and clearly indicate the date of the decision letter which contains the decision on that issue.

If you are submitting an Objection Form for decisions in more than one claim for the same worker, please indicate (in Section 3) the applicable claim number for each issue, if different.

We encourage you to include all related issues from all of this worker's claims so they can be considered at the same time. Please review Section 2 to ensure you are ready to proceed with all of the issues you want to include in your objection.

### 4. Submission

Your submission should provide your reasons for objecting to the decisions on the issue(s) you have indicated in Section 3, and the outcome you are seeking with respect to benefits and/or services, specifying applicable dates. We encourage you to provide a detailed submission outlining your position on all the issues included in your objection. Please indicate the number of pages in your submission (not including the form), and put the worker's name and claim number on each page of your submission. We want to be sure your full submission has reached the file.

The final decision on the resolution method used by the ARO will be made after your fully completed Objection Form and the claim file(s) is received in the Appeals Services Division. Please refer to Section 6 for more details. Providing a submission with your Objection Form will ensure you are ready to proceed according to either resolution method. If the WSIB determines your objection can be decided by a hearing in writing, your submission will be considered together with the information contained in the claim file, and the worker's response submission, if they are participating.

If you feel your position on the issues included in your objection is already contained in the claim file, you may choose not to attach a further submission. We have also provided space on the Objection Form, which you may use to provide your position on the issue(s) in dispute.

Please mark the applicable box on the Objection Form so we can verify that we have received everything you intend to submit to support your objection.

### 5. Representation

The WSIB does not require that you have a representative to have your objection considered in the Appeals Services Division. If you have a representative, the WSIB needs their current contact information.

If you plan to have a representative to handle your objection, you are not ready to proceed to the Appeals Services Division until the WSIB has received a *Direction of Authorization* in this claim, AND your representative is also ready to proceed with your objection.

If you have fewer than 100 employees, the **Office of the Employer Adviser (OEA)** provides representation services at no cost. The OEA can be reached at 1-800-387-0774.

## 6. Appeals Branch Resolution Methods

When a case is referred to the Appeals Services Division, the Appeals Resolution Officer (ARO) will address your objection in one of two ways.

**Hearing in Writing:** This resolution method provides for an expedited ARO decision as the decision is based on the review of the information in the claim file. If the worker is participating, they may make a written submission for the ARO to consider. You will be provided with a copy of their submission. If the ARO determines that the worker's submission contains such significant new evidence or argument, you will have 14 days to make a rebuttal submission. Once all submissions have been received, the ARO will generally make the decision within 30 calendar days.

**Oral Hearing:** Most objections can and should be resolved without the need for an oral hearing. An oral hearing is typically required for cases with conflicting/inconsistent information, multiple issues or complex fact situations where resolution of the objection is dependent on

- an issue of credibility which can only be properly assessed in person, or
- direct testimony from the objecting party or material witness(es).

When making a determination on whether an oral hearing is required, the WSIB will also have regard for the ability of a small, unrepresented employer to effectively present his/her position in writing.

If you request an oral hearing, you should explain in detail on the Objection Form why you are requesting an oral hearing versus a decision by a hearing in writing. The method of resolution to address an objection is an administrative decision of the WSIB and is not appealable to the Workplace Safety and Insurance Tribunal (WSIAT). If you are requesting an oral hearing, you will be notified in writing if your request is granted, and if not, why not.

If the WSIB determines that an oral hearing is required, it will generally be scheduled within 90 days. At the hearing, you will have an opportunity to present your case. You, and possibly others, will be required to provide testimony about the issue(s) in dispute. The ARO will generally complete the decision within 30 calendar days from the date the hearing is completed.

If you, or your representative, are not available to attend an oral hearing within the 90 days, the case will be withdrawn from the Appeals Services Division since your unavailability will be seen as not being ready to proceed with your objection. If you wish to pursue your objection at a later date, you will be required to re-submit the Objection Form.

For more detailed information about the resolution methods and the consequences of not being ready to attend an oral hearing within 90 days, please review the *Appeals System Practice & Procedures* document, available on our website at [www.wsib.on.ca](http://www.wsib.on.ca).

### 7. Additional Questions

If you indicate a preference for resolution by an oral hearing, you must answer all of the questions in this section. The *Appeals System Practice & Procedures* document provides additional information to assist you with answering these questions.

### 8. Declaration and Acknowledgement of Risk

<<See 17. In Consultation Paper for two options.>>

By signing and submitting this form, you are confirming you are ready to proceed with your objection. The WSIB requires your signature, and your representative's signature if applicable, before your case can be referred to the Appeals Services Division.

#### ***Submitting the Objection form***

Once you have completed all sections of the Objection Form and signed where indicated, please send the form (and any attachments) to the WSIB by **fax to 416-344-4684 or 1-888-313-7373** or by mail to:

Workplace Safety and Insurance Board  
200 Front Street West  
Toronto, ON M5V 3J1

## Appendix 5: Criteria for Hearing in Writing vs. Oral Hearings

Section 119(3) of the *Workplace Safety and Insurance Act* (WSIA) states:

“Hearing – The Board shall give an opportunity for a hearing.”

Section 119(4) states:

“The Board may conduct hearings orally, electronically or in writing.”

The Appeals Services Division will resolve an objection either through a hearing in writing or through an oral hearing. An oral hearing can be held in person or by teleconference.

The objecting party is encouraged to provide a detailed submission outlining his or her position on all issues, including the requested method of resolution, on or attached to the Objection Form. The participating party has the opportunity and is encouraged to respond on both the substantive issue and his or her requested method of resolution.

If either the objecting party or the participant requests an oral hearing, the file will be forwarded to the Appeals Manager, who will make an administrative decision on the method of resolution.

The decision to grant/not grant a request for an oral hearing is an administrative decision of the WSIB and is not appealable to WSIAT. A request for reconsideration of this decision can be made to the Appeals Manager who made the decision. There will be no opportunity to request reconsideration by the Executive Director of the Appeals Services Division.

Both the objecting party and the participant will be allowed a further 21 days to make a substantive submission on cases where an oral hearing has been requested and the Appeals Manager has determined that the case will be decided through a hearing in writing. There will be no sharing of any additional submissions received and no opportunity for rebuttal.

If the WSIB determines the appeal should be decided through a hearing in writing, the submission made on or attached to the Objection Form will be considered together with the participant’s response and the further substantive submissions made subsequent to the hearing in writing determination by the Appeals Manager, and the information contained in the claim file.

When making a determination on whether an oral hearing is required, the Appeals Services Division will have regard for the ability of the unrepresented worker to effectively present his or her position in writing.

### Hearing in Writing

An Appeals Resolution Officer will make a decision in these cases based on a review of the information contained in the file record, along with the information contained in and attached to, the Objection Form. The Appeals Resolution Officer will generally complete the decision within 30 days of assignment.

Generally, an oral hearing will not be held where the facts are not in dispute and/or oral testimony would not add to the information contained in the claim file.

The following issues **will** be resolved through a hearing in writing:

- Pension commutations
- Pension arrears
- Pension or non-economic loss (NEL) award quantum/redetermination
- Noise induced hearing loss
- Entitlement to health care benefits

- Entitlement to less than two weeks' lost time benefits (e.g., an objection relating to suitable employment available but not offered/ worker declined offer of suitable employment; worker delayed seeking medical attention; delay in reporting injury)
- An employer request for Second Injury and Enhancement Fund (SIEF) relief
- Issues relating to payment of interest
- CPP benefit offset
- Earnings basis
- Medication (not tied to an entitlement issue)
- Request for an Independent Medical Examination
- Medical compatibility
- Time limit to object
- Assessable earnings and penalties
- Straightforward classification issues
- Retroactivity in revenue assessments

## Oral Hearings

The Appeals Services Division recognizes that, especially for workers, oral hearings can be seen as the preferred method of resolution, allowing them the chance to make their case "face to face." However, oral hearings contribute significantly to delays and don't always provide additional evidence that could not have been provided in writing. Therefore, most cases will be resolved through a hearing in writing.

An oral hearing is typically required for cases with conflicting/inconsistent information, multiple issues or complex fact situations where resolution of the appeal is dependent on:

- An issue of credibility which can only be properly assessed in person, or
- Direct testimony from the objecting party or material witness(es).

It is important to note that a case with multiple issues would not necessarily result in a need for an oral hearing if the case turned on a policy interpretation or a medical issue.

The following issues would **more likely** require an oral hearing:

- Conflicting/inconsistent information related to disablements
- Proof of accident
- Complex non-organic conditions
- Complex occupational disease cases
- Return to work/job suitability; re-employment; co-operation; labour market re-entry issues
- Transfer of costs
- Independent operator/worker status.

Even if the appeal contains any of the above listed issues, an oral hearing will not necessarily be granted. Both the objecting party and the participant, when they complete their Objection Form or provide their submissions, will need to make a clear and comprehensive argument about why the evidence and arguments to be made in the case cannot be made in writing.

For example, if there is documentary information on file regarding the worker's pre-injury or modified job and the worker disagrees with that information, the worker/representative must advise in the Objection Form why the statement from the worker describing these jobs from his/her perspective would not be sufficient.

If a party has requested one or more witnesses in support of their position, they must advise why it would not be sufficient for a written statement to be provided from that potential witness.

With respect to the issue of credibility, the party requesting the oral hearing must establish that the decision at issue turns on a question of credibility, as opposed to making a general statement that credibility is in question. The concept of the requirement to weigh the evidence and determine, on a balance of probabilities, whether entitlement should be granted on a worker appeal, or denied on an employer appeal, is often mistaken for or mischaracterized as a question of credibility.

If the WSIB determines that an oral hearing is required, it will generally be scheduled within 90 days of the Appeals Manager decision that an oral hearing is warranted, and the party requesting a hearing will need to be available within that time period.

At the oral hearing, the objecting and participating party will have an opportunity to present their case. The worker and possibly others will be required to provide testimony about the issue(s) in dispute. The Appeals Resolution Officer will generally complete the decision within 30 calendar days from the date the hearing is completed.



## Appendix 6: Unavailability for Oral Hearings

Required Availability of Objecting Party	Timing	Consequence	Requirement for availability
Objecting Party is granted request for oral hearing	Within 90 days		Oral hearings will generally be scheduled within 90 days of the letter confirming an oral hearing is warranted
Objecting Party unavailable within 90 days	Within 120 days	Further discussion with the Hearing Scheduler will occur.	Objecting Party must be available within the first 30 days after the 90 day time period
Objecting Party unavailable within the 120 day time period	Can reapply in 30 days	The case is withdrawn and the party will have to wait 30 days to resubmit an Objection Form through the Objection Intake Team	Objecting Party must be available within 90 days of the resubmitted Objection Form
Objecting Party unavailable within 90 days after resubmitted Objection Form.	Can reapply in 90 days	The case is withdrawn and the party will have to wait 90 days to resubmit an Objection Form through the Objection Intake Team	Objecting Party must be available within 60 days of the resubmitted Objection Form
Objecting Party unavailable within 60 days after resubmitted Objection Form		The case is withdrawn for a third time and the party will be required to write to the Executive Director of the Appeals Service Division to request the ability to return to the Appeals Services Division	

### Note

If an objecting or participating party is temporarily unavailable to discuss the scheduling of a hearing for reasons beyond his or her control, such as the sudden and serious illness of the party or the need to leave the country to deal with an emergency, the appeal will not be withdrawn immediately but will instead be returned to the Appeals Manager who will place the case on administrative hold until the situation has resolved and the case can be sent back to the Hearing Scheduler for scheduling. If the unavailability of the party becomes prolonged, the case may be withdrawn or proceed, at the discretion of the Appeals Manager.

## Appendix 7: Consequences of Withdrawals

Registered in Appeals Services Division, but Objecting Party Withdraws Case	Consequence
1 <sup>st</sup> Withdrawal	The case will be withdrawn and the party will have to wait 30 days to resubmit an Objection Form through the Objection Intake Team. The withdrawal letter will attach a new Objection Form.
2 <sup>nd</sup> Withdrawal	The case will be withdrawn and the party will have to wait 90 days to resubmit an Objection Form through the Objection Intake Team.
3 <sup>rd</sup> Withdrawal	The party will be required to write to the Executive Director of the Appeals Services Division to request the ability to return To the Appeals Services Division.

### Note

If an objecting or participating party is temporarily unavailable to participate in the submission and disclosure process for reasons beyond his or her control, such as the sudden and serious illness of the party or the need to leave the country to deal with an emergency, the appeal will not be withdrawn immediately but will instead be returned to the Appeals Manager who will place the case on administrative hold until the situation has resolved and the case can be sent back to the AA to proceed with disclosure process. If the unavailability of the party becomes prolonged, the case may be withdrawn or may proceed, at the discretion of the Appeals Manager.