

Post Decision Guide

WHAT HAPPENS NOW?

Your WCAT decision is final and conclusive. You cannot appeal it.

After we make a decision to allow an appeal, WorkSafeBC will implement our decision.

Please contact the WorkSafeBC officer or the department handling the claim regarding any questions you may have about how and when they will implement our decision. We do not supervise the implementation of our decision.

CAN WE CORRECT OUR DECISION?

Yes. Although WCAT decisions are final and conclusive, we automatically correct any accidental errors or omissions (such as typographical or arithmetic errors) that we notice in our decision. If you notice any such errors that we may have missed, please let us know as soon as possible by writing to us and we will correct these as well.

We try to make all such corrections within **90 days** of the date we send our decision to you.

CAN WE CLARIFY OUR DECISION?

Yes. Although WCAT decisions are final and conclusive, we can clarify our decision if it is not clear to you. We cannot clarify our decision unless you ask us to do so in writing within **90 days** of the date we send you our decision. The vice chair will decide whether clarification is necessary.

WHAT IF WE DID NOT DECIDE ALL THE ISSUES ON YOUR APPEAL?

If the vice chair did not decide an issue contained in the appeal, please let us know by writing to us. If the vice chair agrees that

they did not decide an issue contained in the appeal, they will finish their decision by writing an addendum.

CAN WE RECONSIDER OUR DECISION?

Yes, we can reconsider our final decision for very limited reasons. This process is called reconsideration.

To qualify for a reconsideration, you must show:

- That there is new evidence that was not available when the vice chair was making the decision (see *What is new evidence?* on page 3 of this Guide); or
- That we made a jurisdictional error (see *What is a jurisdictional error (defect)?* on page 3 of this Guide).

These are called the grounds, or the threshold, for reconsideration.

Only the appellant or the respondent (or their representatives) can apply for reconsideration of our decision.

HOW DO I APPLY FOR A RECONSIDERATION?

Please fill out the *Application for Reconsideration* form and send it in to Tribunal Counsel Office. You will find the form on our website at www.wcat.bc.ca under the **Forms** tab. You can also telephone us and we will send you one. If your application for reconsideration is on new evidence grounds, you should send in the new evidence along with your application.

You can also apply for reconsideration by writing a letter to Tribunal Counsel Office explaining how you meet the grounds for reconsideration (see *Can we reconsider our decision?* above).

IS THERE A TIME LIMIT TO APPLY FOR RECONSIDERATION?

No. There is no time limit to apply for reconsideration.

WHAT IS NEW EVIDENCE?

For evidence to be new it must not have existed at the time your appeal was being decided or, if it did exist, you did not know about it and you would not have been able to find it if you had tried. This is called reasonable diligence.

New evidence must be substantial, that is, have weight and support a different conclusion. It must also be material, that is, it must be relevant to the decision. For example, a new medical opinion based on a newly introduced medical test might be new evidence, while the opinion of a new specialist confirming a medical opinion already on the file might not.

WHAT IS A JURISDICTIONAL ERROR (DEFECT)?

A jurisdictional error occurs if we did something we had no power to do, or if we did not do something that we were required to do.

A jurisdictional error occurs if a vice chair's decision was patently unreasonable. This means that the mistake must be so large and so obvious that no reasonable decision-maker should have ever made it. It is not enough that a different vice chair might have decided the appeal differently. For example, to be patently unreasonable, the original vice chair must have based the decision on no evidence at all, or overlooked critical evidence, or not explained why they accepted certain evidence and not contradictory evidence, or the decision must not be capable of being rationally supported.

A jurisdictional error also occurs if we did not act fairly. For example, a jurisdictional error would occur if we did not give you an opportunity to make a submission, or did not send you new evidence we obtained, or did not consider information you submitted by the deadline we gave you. To qualify for a reconsideration because of this kind of jurisdictional error, you must show that we did not act fairly in all the circumstances.

HOW MANY TIMES CAN I APPLY FOR RECONSIDERATION?

You can apply for reconsideration of a WCAT decision on each ground once. This can be at the same time or separately. It is important not to apply for reconsideration until you are ready.

If more than one decision was appealed to WCAT, and we administratively joined them so that we only issued one decision, you can bring separate reconsideration applications on new evidence grounds only. But, if your new evidence is relevant to more than one of the joined appeals, you must apply for reconsideration of all of them at the same time.

HOW DOES THE RECONSIDERATION PROCEED?

Tribunal Counsel Office will examine your application to see if you have set out potential grounds for reconsideration. If you have, they will send your application to our Registry. If you were the appellant, the Registry will then invite the respondent to participate in the reconsideration even if they did not participate in the appeal. If you were the respondent, the Registry will then invite the appellant to participate in the reconsideration.

The Registry will invite written submissions from the appellant and the respondent. Once the Registry receives all submissions, they will forward your reconsideration application together with all written submissions to a vice chair who will decide whether there are grounds for reconsideration, that is, whether the threshold test has been met. The vice chair will issue a formal written decision.

If the reconsideration vice chair decides that the threshold test has been met, they will allow your application for reconsideration. The appeal will be reheard either by the original vice chair, or by the reconsideration vice chair, or by a new vice chair.

It may take some time for us to make a decision on your reconsideration because we give priority to new appeals.

WILL WCAT ORDER WORKSAFEBC TO REIMBURSE MY EXPENSES FOR OBTAINING NEW EVIDENCE?

If your reconsideration application is based on new evidence, the reconsideration vice chair will decide whether you should be reimbursed for the expense of obtaining the new evidence. We put limits on the amount of reimbursement which you will find on our website under the **MRPP** tab in the *Manual of Rules of Practice and Procedure*. If your bill is higher, and you want to be repaid for all your expenses, please explain the reason why you think we should order payment of the full amount.

IS THERE ANYTHING ELSE I CAN DO?

You can also apply to the Supreme Court of British Columbia for judicial review of our decision on the basis of jurisdictional error

within **60 days** of the date we issued the decision (see *What is a jurisdictional error (defect)?* on page 3 of this Guide).

Information about judicial reviews of WCAT decisions is available on our website and in the *Judicial Review Guide* which you can find under the **After an Appeal** tab. You may also call us and we will send it to you. General information about judicial reviews is also available in the *Judicial Review Guidebook* on the Supreme Court of British Columbia's website at: www.courts.gov.bc.ca under the **Self-Represented Litigants** tab.

CAN I APPLY FOR RECONSIDERATION AND JUDICIAL REVIEW AT THE SAME TIME?

Yes. You can apply for reconsideration and judicial review of the same decision at the same time. In that case, we will provide the reconsideration vice chair with the judicial review petition and related documents. The vice chair will consider the portions of those documents which are relevant to the reconsideration application.

WHERE CAN I FIND MORE INFORMATION?

You will find more information about reconsiderations, including the *Application for Reconsideration* form, on our website (www.wcat.bc.ca) under the **After an Appeal** tab. You will find the *WCAT Manual of Rules of Practice and Procedure* under the **MRPP** tab. You will find previous WCAT decisions under the **Search Our Decisions** tab.

For further information about WorkSafeBC please contact: 1 888 967-5377.

HOW CAN I GET HELP WITH MY RECONSIDERATION?

You can get free help with your reconsideration application from a workers' or employers' adviser at one of these locations:

WORKERS' ADVISERS

Website: www.labour.gov.bc.ca/wab

VANCOUVER/LOWER MAINLAND REGION

Abbotsford

204 - 32555 Simon Avenue
Abbotsford, BC V2T 4Y2
Telephone: 604 870-5488
Fax: 604 870-5494
Toll Free within BC:
1 888 295-7781

Richmond

500 - 8100 Granville Avenue
Richmond, BC V6Y 3T6
Telephone: 604 713-0360
Fax: 604 713-0311
Toll Free within BC:
1 800 663-4261

VANCOUVER ISLAND REGION

Campbell River

205 - 1040 Shoppers Row
Campbell River, BC V9W 2C6
Telephone: 250 830-6526
Fax: 250 830-6528
Toll Free within BC:
1 888 643-0013

Nanaimo

504 - 495 Dunsmuir Street
Nanaimo, BC V9R 6B9
Telephone: 250 741-5504
Fax: 250 741-5516
Toll Free within BC:
1 800 668-2117

Victoria

403 - 3960 Quadra Street
Victoria, BC V8X 4A3
Telephone: 250 952-4393
Fax: 250 952-4399
Toll Free within BC:
1 800 661-4066

INTERIOR REGION

Kamloops

102 - 70 Second Avenue
Kamloops, BC V2C 6W2
Telephone: 250 371-3860
Fax: 250 371-3820
Toll Free within BC:
1 800 663-6695

Kelowna

101 - 1726 Dolphin Avenue
Kelowna, BC V1Y 9R9
Telephone: 250 717-2096
Fax: 250 717-2010
Toll Free within BC:
1 866 881-1188

Nelson

310 Ward Street
Second Floor
Nelson, BC V1L 5S4
Telephone: 250 354-6933
Fax: 250 354-6944
Toll Free within BC:
1 866 354-6933

Prince George

208 - 1577 7th Avenue
Prince George, BC V2L 3P5
Telephone: 250 565-4280
Fax: 250 565-4283
Toll Free within BC:
1 800 263-6066

EMPLOYERS' ADVISERS

Website: www.labour.gov.bc.ca/eao

VANCOUVER/LOWER MAINLAND REGION

Abbotsford

207 - 32555 Simon Avenue
Abbotsford, BC V2T 4Y2
Telephone: 604 870-5492
Fax: 604 870-5498
Toll Free within BC and
Alberta: 1 866 870-5492

Richmond

620 - 8100 Granville Avenue
Richmond, BC V6Y 3T6
Telephone: 604 713-0303
Fax: 604 713-0345
Toll Free within BC and
Alberta: 1 800 925-2233

VANCOUVER ISLAND REGION

Nanaimo

404 - 495 Dunsmuir Street
Nanaimo, BC V9R 6B9
Telephone: 250 741-5500
Fax: 250 741-5508
Toll Free within BC and
Alberta: 1 866 827-2277

Victoria

400 - 3960 Quadra Street
Quadra Centre
Victoria, BC V8X 4A8
Telephone: 250 952-4821
Fax: 250 952-4822
Toll Free within BC and
Alberta: 1 800 663-8783

INTERIOR REGION

Kamloops

101 - 70 Second Avenue
Kamloops, BC V2C 6W2
Telephone: 250 828-4397
Fax: 250 828-4563
Toll Free within BC and
Alberta: 1 866 301-6688

Kelowna

102 - 1726 Dolphin Avenue
Kelowna, BC V1Y 9R9
Telephone: 250 717-2050
Fax: 250 717-2051
Toll Free within BC and
Alberta: 1 866 855-7575

Nelson

503 - 310 Ward Street
Nelson, BC V1L 5S4
Telephone: 250 354-6139
Fax: 250 354-6138
Toll Free within BC and
Alberta: 1 877 877-5524

Prince George

206 - 1577 7th Avenue
Prince George, BC V2L 3P5
Telephone: 250 565-4285
Fax: 250 565-4288
Toll Free within BC and
Alberta: 1 888 608-8882

WCAT INFORMATION GUIDES

*Appealing a Review Division Decision -
Worker's Guide**

*Appealing a Review Division Decision -
Employer's Guide**

*Respondent's Guide**

*Oral Hearing Guide**

*Written Submission Guide**

*Medical Evidence Guide**

*Post Decision Guide**

Judicial Review Guide

*Legal Action Guide
(Section 257 Certificate)*

Direct Appeal Guide for Workers

Direct Appeal Guide for Employers

* These Guides are also available on our website in Punjabi, Chinese (Traditional) and Chinese (Simplified)

WCAT CONTACT INFORMATION

Website: www.wcat.bc.ca

Telephone: 604 664-7800

Fax: 604 664-7898

Toll Free within BC: 1 800 663-2782

Mailing Address:

Workers' Compensation Appeal Tribunal
150 - 4600 Jacombs Road
Richmond, BC V6V 3B1