

<b>Date</b>	July 31, 2018
<b>Time</b>	9:30 am – 12:30 pm
<b>Location</b>	First Floor Training Room
<b>Participants</b>	WCAT: Renee Miller, Jim Sheppard, Ning Alcuitas-Imperial External: Michelle Good, Rosalind Campbell Videoconference: Miranda Seymour Teleconference: Melissa Louie Regrets: Chris Hiebert, Aaron Bruce

<b>Agenda</b>
<ul style="list-style-type: none"> <li>to review our practices and procedures to facilitate indigenous appellants' ability to navigate/participate in the appeal process</li> </ul>

The following matters were discussed:

	<b>Topic</b>
<b>A</b>	<p><b>Self-Identification</b></p> <ul style="list-style-type: none"> <li>This is critical. Suggested wording is:</li> </ul> <p>The purpose of this question is to understand more about the background of the people appearing and to identify barriers in our appeal process.</p> <p>Are you an indigenous person (includes a person of indigenous ancestry: Inuit, Metis, First Nations, non-status, status, and anyone with First Nations ancestry)?</p> <p><input type="checkbox"/> Yes  <input type="checkbox"/> No  <input type="checkbox"/> I choose not to answer this question  <input type="checkbox"/> other, please explain</p>
<b>B</b>	<p><b>Socio-Political boundaries to filing an appeal with WCAT</b></p> <ul style="list-style-type: none"> <li>A general reluctance to get involved in perceived conflict with government or the judicial system;</li> <li>Poverty and the barriers to getting assistance, in particular a lack of resources for those who live in more rural/remote locations where the Worker's Advisors office is not available or for example where there is no longer bus service to larger centres;</li> <li>A reluctance to make trouble at work;</li> <li>Acceptance of discrimination or bullying and harassment in the work environment; and</li> <li>Lack of access to medical treatment where a work related injury might be identified in the absence of employer or worker identification.</li> </ul>

<p><b>C</b></p>	<p><b>Difficulties working with WCAT’s registry procedures</b></p> <ul style="list-style-type: none"> <li>- A lack of understanding of the process, and options available</li> <li>- A lack of access to the internet, printers or computers, which impedes the ability to access their claim and information from WCAT or the Workers Advisor.</li> </ul> <p><u>Suggestions:</u></p> <ul style="list-style-type: none"> <li>- Optimizing the Notice of Appeal for smart devices;</li> <li>- Designation of Special Handling to look at the amount of time scheduled and the venue</li> <li>- Assignment of an Appeal Coordinator/Navigator, who can give assistance regarding the completion of forms and preparation and who is specifically trained in the barriers of Indigenous appellants; and</li> <li>- Inclusion of a specific Instruction Sheet with WCAT’s pamphlet (see reference to New Zealand pamphlet), with very clear instructions, not in legalese, explaining the role of the appellant, what will happen at the hearing (how the hearing is for a limited time and the VC will be needing specific information and asking you questions, etc.), what they need to do in preparation, and options available for alternative process. The suggestion is that this pamphlet include pictures, for example of the hearing room set-up, so that they know what to expect.</li> </ul>
<p><b>D</b></p>	<p><b>The Oral Hearing – Physical set-up and location</b></p> <ul style="list-style-type: none"> <li>- Poverty. The expense system is set up to reimburse appellants for the expenses of attending a hearing (travel and accommodation, etc.) but many appellants, in particular those who live in rural communities, will not have the resources to initially get to the hearing location. They may not have cars, or the ability to fund their access, even if they will be reimbursed later</li> <li>- The hearing room is very institutional looking, reminiscent of government; and</li> <li>- The set-up of the tables implies an adversarial process with the parties opposing each other.</li> </ul> <p><u>Suggestions:</u></p> <ul style="list-style-type: none"> <li>- Special Handling where the expense of bringing and appellant to the location of the hearing is paid by WCAT, for example where the appellant is brought to a location for either a medical appointment or to Richmond for their hearing; or</li> <li>- Offering to have the Oral Hearing at the local Community Centre. Every First Nations organization will have a Band Office or Community Centre where WCAT could set up for travelling hearings; or</li> <li>- Offering Video Conferencing from the Band Office, where there is likely a PC. Barriers to this will be remote locations with no internet access. A navigator would be able to offer more alternative options for venue of Oral Hearings;</li> <li>- Artwork in the hearing room to make it more inviting and less institutional looking; and</li> <li>- A circular desk set-up to change the impression that the hearing is adversarial.</li> </ul>

**E Oral Hearing- VC Decision Making**

- Indigenous people have impediments in their access to doctors. Especially in remote locations where there may be few doctors available and if the doctor is unwilling to do WCB cases there may be no-one to file medical reports
- Implicit bias in medical reports where doctors are skeptical of the credibility or accuracy of incident or symptom reports and reflect those views in their medical records
- The application of Section 55 of the Act, where the appellant has delayed making a claim for compensation for any, or all, of the reasons noted above
- The dynamic of their way of discussing issues. The traditional way Indigenous peoples discuss issues and tell their story is circular and involves a long introduction to the conversation. In part this is the development of trust on the part of the person telling the story, but it is also part of their cultural history. The result is not chronological or direct and could provide a barrier to presenting a claim in terms of the amount of time allowed for hearing, an evaluation of credibility based on the chronology of evidence, a reluctance on the part of the appellant to discuss the issues without being given the opportunity to tell their story first; and
- Implicit bias on the part of VC's. The western set-up of the legal system assumes this is the standard of behavior against which all other behavior is measured. However, this western standard or view is but one way of viewing the world or dictating behavior and responses; and
- The structure of families where one person is identified to speak on behalf of others within the family.

Suggestions

- Specific skills-based training on recognizing implicit bias in the legal view from which VC's view appeals
- Specific skills-based training on the implicit bias which may appear within medical records
- Recognition and possibly alternative ways of conducting hearings
- Recognition and possibly alternative ways of evaluating credibility
- Understanding delay or reluctance to proceed with hearings or identify treatment at work as being problematic or causative of an injury, rather than normal
- Allowing or suggesting the attendance of a support person in the form of a friend of the court, including possible payment of the costs of a hearing
- Training to understand the language used vis-a-vis the Indigenous community, where and why that language developed, and what the appropriate language for interaction/decisions should be. For example do not use the term welfare, as in your personal welfare, because it has a very specific meaning; and
- Introduce the statistics for the absence of claims/appeals.