



Medical and Appeals Performance Review (MAPR)

High-level summary

Background

- As part of the strategic engagement plan for the 2020 Workers' Compensation Board (WCB) review, the Government of Alberta approved the Medical and Appeals Performance Review (MAPR) on July 7, 2020.
- An independent consultant, Engage First Management Consultants, was commissioned to conduct the review and deliver a report outlining recommendations to improve performance. The objectives of MAPR were to:
 - streamline medical reviews and appeals to minimize red tape, time and costs;
 - identify opportunities to increase the responsiveness of the system;
 - simplify medical review and appeal policies, processes and procedures; and
 - ensure long-term system sustainability.
- The review was conducted between January and June 2021, and the final report was delivered in January 2022.
- On April 1, 2021, in the midst of the review, amendments to the *Workers' Compensation Act* took effect that moved the functions of the Appeals Advisor Office under the WCB and Medical Panels Office under the Appeals Commission for Alberta Workers' Compensation (Appeals Commission); however, the report does not capture these changes.

Outcomes

- MAPR evaluated the medical review and appeal service functions within Alberta's workers' compensation system. It found Alberta's system is among the better performing workers' compensation systems in Canada and works well for workers and employers in most respects, but with some opportunities for improvement.
- The MAPR report recommendations were reviewed by the department, WCB and the Appeals Commission. Several actions have been taken by both agencies resulting in streamlined processes, time savings, and improved system responsiveness. However, some recommendations will not be actioned because they were either out of scope for the review, would not achieve their intended outcome (for example, they may increase red tape for stakeholders), or the intended outcome was addressed in a different way.
- Ongoing system enhancements will continue to further achieve the goals of this review. The WCB and Appeals Commission may be contacted directly for updates on any of the ongoing system enhancements.



Report to The Minister of Labour & Immigration: Streamlining Medical Review and Appeals

ALBERTA WORKERS' COMPENSATION SYSTEM MEDICAL AND APPEALS PERFORMANCE REVIEW

Report by:



Edmonton, January 21, 2022

Notice

This report has been produced independently by Engage First Management Consultants for the Minister of Labour and Immigration, Government of Alberta. We relied on data provided by the agencies within Alberta Workers' Compensation System, and by the agencies in other provinces. While reasonable care has been taken to ensure the accuracy of the information, we did not perform any independent audit or verification of the facts. The information contained in this report are confidential and intended for use by the Ministry and the agencies within the Workers' Compensation System. This report or any part thereof may not be reproduced without the express permission of the Ministry.

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Executive Summary

A. Context

The Alberta Workers' Compensation System (WCS) has been reviewed at various points in time over the past twenty years. A focused review of the appeals and decision review system was conducted by a Review Committee appointed by the Minister responsible for the Workers' Compensation Board (WCB) in the year 2000. The committee recommended several substantive changes to the decision review and appeals process. Those recommendations informed the creation of new and changed structures which, for the most part, exists today.

The last major review of the WCS in Alberta was completed in 2017. It culminated in substantial changes in the system that were introduced in 2018. The most significant changes introduced in the appeal and medical review processes were the creation of an independent Fair Practices Office (FPO), an independent Medical Panels Office (MPO), and the new Employer Appeals Advisor service. In December 2020, the Government of Alberta passed the *Ensuring Safety and Cutting Red Tape Act 2020* (Bill 47) which restructured and moved the medical panel, fairness review, and appeals advisor services within the Workers' Compensation System. The WCB has created a Fairness Review function, and the Appeals Commission (AC) is administering the Appeals Advisor and the Medical Panel services. The FPO and the MPO offices were discontinued, however most of their services continue to be available. These changes were effective April 1, 2021.

The review was conducted at a time when significant changes resulting from new legislation were occurring in the WCS. At the time of writing this report, the Appeals Commission was in the process of re-organizing the Appeals Advisor and the Medical Panel services within its structure. Many of the relevant details were not clear at the time, and therefore may have changed after this report was completed.

B. Review Objectives

In January 2021, the Minister of Labour and Immigration appointed Engage First Management Consultants to conduct a performance review of the medical review and appeals services in the Alberta WCS, including the WCB and the AC. The project, the "Workers' Compensation System – Medical and Appeals Performance Review" (WCS-MAPR), would assess the need, appropriateness, effectiveness, and efficiency of the medical review and appeals services and make recommendations on how to strengthen and streamline them. The objectives were to identify opportunities throughout the medical and appeals system to:

- simplify the processes;
- streamline and reduce variance for WCB claims processes that require a medical review or appeal to ensure simplicity, avoid red tape, and minimize the time and cost to resolve them;
- identify opportunities to increase the responsiveness of the system to worker and employer needs through early resolution or intervention; and
- ensure long-term system sustainability.

C. Review Approach

The medical review and appeals processes within the WCS are known to be complex, and a thorough but pragmatic system-wide review approach was needed to complete the review. Leveraging prior knowledge of the system, a focused fact-finding and investigation plan was adopted to achieve new insights into the medical and appeals processes.

i. Information Gathering

Extensive information gathering was conducted which included the following methods.

- *Document Review* – Significant time was invested in collecting operational data, and reviewing documents that were requested from the system agencies, and from online information sources. A thorough review of this information revealed operational insights, and provided a foundation for further enquiries in the areas of interest.
- *Jurisdictional Scan* - A wide-ranging jurisdictional scan, which included interviews and document reviews, was undertaken of four provincial systems (WorkSafe BC, WCB Saskatchewan, WCB Manitoba, and WSIB Ontario) to gather comparative data related to each dimension of the evaluation. The extent of data that was gathered from the provincial systems provided meaningful comparatives and references.
- *Informational Interviews* - More than twenty-five system stakeholders, including management and staff of the system agencies, were consulted. Interviews were conducted with the leadership of key stakeholder organizations as well as with medical and appeals operational staff in all the system agencies to gather detailed information to help contextualize and better understand the evidence collected from the other methods. The latter group included Worker and Employer Appeals Advisors, WCB CSD Supervisors, and representatives from WCB DRDRB and Quality Assurance teams. Private advocates were also interviewed.

- *Analysis and Synthesis* - Achieving the objectives of the review required extensive analysis of the data gathered to gain a deeper understanding of the issues and concerns identified and uncovered. Once analyzed, the information was synthesized into common themes so that concrete recommendations could be made.

D. Our Findings

i. Overall

Alberta has the fourth largest WCS in the country with approximately 1.9 million worker's insured through 159,000 employers. The WCB processed approximately 130,000 new claims in 2019 of which just over 2% of decisions made by the WCB were disputed by a worker or an employer. A detailed mechanism for resolving disputes exists within the WCS starting with a negotiated resolution (within the WCB) followed by a formal and arbitrated final decision (outside of the WCB).

Workers generally request a review when they disagree with a WCB decision related to claim acceptance, entitlement, benefit, or fitness to work. Employers most commonly request a review when they disagree with a decision related to a worker's claim or with a decision related to an assessment on their account. The process for resolving these disputes starts with an informal negotiation with the Claim Owner who made the original decision. The Claim Owner may consult with their Supervisor to resolve the dispute. If resolution is not achieved, the dispute is referred to the WCB DRDRB, and finally to the AC if the previous approaches do not resolve the dispute.

The medical process may involve a Medical Consultant (MC) who provides medical opinions based on a review of the worker's medical file, or an Independent Medical Examiner (IME) who provides medical opinion based on a physical examination of the worker. The Medical Panel (MP) is a panel of health specialists who make final and binding decisions on medical matters to resolve differences in medical opinions of a very complex nature. All these processes help the Claim Owner in making an adjudication decision.

Alberta's WCS has been affected by the economic downturn from the Covid-19 pandemic. Compared to 2019, the system experienced a 9% decrease in the number of workers insured, and a 17% decrease in the number of new claims in 2020. However, the number of lost time claims, and the number of requests for review remained unchanged at about 30,000 and 2,200 respectively during the same time period. We are uncertain of what the post-pandemic future will look like, but out of an abundance of caution we relied on 2019-20 operational data for our analysis in this review.

For the most part, the system works well for the workers and employers. That being said, there are opportunities in the medical and appeals processes that, when leveraged, can improve the experience of workers and employers who disagree with a WCB decision. These findings generally fall under function, governance, and process categories as reflected by the chapter headings of this report.

ii. Specific Observations and Findings

In this section we present the facts and figures collected in our information gathering. These points do not purport to represent the whole picture. Further details can be found in the relevant chapters of this report.

Findings from Stakeholder Engagement

- Stakeholders from both workers and employers were satisfied that the system allows workers and employers multiple opportunities to request a review when they disagree with a decision made by the WCB.
- Claim Owners have a very challenging role as adjudicators, since claims are becoming more complex, and they must balance between the injured worker/employer interests, and WCB policies on entitlements and benefits.
- Based on Appeals Advisor's experience, a proportion of disagreements arise due to the worker or employer's inability to understand the decision letter, which can sometimes be complex, or lack clarity.
- Disagreements also arise due to perceived deficiencies in the quality of adjudication i.e. weighing of medical and non-medical evidence.
- There were mixed opinions about the quality of adjudication and dispute resolution by Claim Owners.
- Several stakeholders expressed lack of confidence in the DRDRB's review process. Most external stakeholders, including those among employers, would like to see changes made to the DRDRB decision review process to improve transparency and independence.
- Stakeholders have a healthy level of trust and confidence in the processes and decisions made by the Appeals Commission. Most stakeholders felt that the decisions made by the AC are fair and independent.
- Most stakeholders would like the Medical Panels to continue because it serves a very unique and a needed purpose in the system.
- The system funded Appeals Advisors enjoy a good reputation among all stakeholders. Some stakeholders suggested involving advisors earlier in the process, especially for vulnerable clients, to mitigate the risk of disagreements escalating into disputes.

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- In the experience of WCB staff, the resolution process and negotiation with private advocates does not have the same professionalism and efficiency as with the system funded Appeals Advisors.
 - The most common concern regarding the entire medical review and appeals process was the length of time it took at every step of the process. Stakeholders were concerned about the lack of adherence to service standards for completion of processes.

Findings from Operational Data Analysis of Alberta WCS (based on 2019 data)

- Approximately 2% (2738) of the total new claims had a disagreement or a dispute, of which about 33% were resolved by the Claim Owner, and the remaining were referred to the DRDRB within 14 days.
- The DRDRB's Resolution Specialists (15.5 FTE's) reviewed 1,836 DRDRB cases, averaging 118 reviews completed per Specialist per year.
- Approximately 88% of DRDRB reviews were completed within their service standard of 40 days. This does not include days lost due to postponement (requested by the claimant). About 55% of the cases were postponed by an average of over 100 days.
- The DRDRB upheld 80% of the Claim Owner's decisions, and the remainder were reversed or varied.
- A decision review by the DRDRB costs about \$1,035 per case.
- The AC decided on 507 appeals, at an estimated average cost of about \$13,262 per hearing (based on total AC budget). Some cases may require more than one hearing.
- The AC confirmed 56% of decisions made by the DRDRB, reversed 24%, and varied 20% of them.
- An AC appeal required about 209 days from intake to decision compared to their target of 180 days. When delays from postponement (at the request of a party to the dispute) or adjournment (decided by the Chair during the hearing) are included, the average duration from intake to decision is about 100 days more.
- There were 20,857 referrals to Medical Consultants, which is about 27% of total claims in active case management (Note: claims in active case management include new time lost claims plus claims open from previous years. Based on the Medical Consultants' Quality Assurance Report of 2019 about 44% of medical consultations are related to claims that started in the same year, of these just under 1% are related to no time lost claims. In some instances where a no-time lost claim requires an MC, it may be accompanied by a change in status to time lost claim. Hence, although no time lost claims may require an MC, comparison of medical consultations using active claims is more realistic.)

- An MC referral costs an average of \$144 per referral and requires about 4 days to complete.
- There were 1,417 IMEs, which is about 2% of total claims in active case management (new time lost plus open from previous years).
- An IME costs an average of \$1,614 and requires about 42 days on average.
- There were 13 Medical Panels in 2019 at a cost of \$20,152 per panel. On average a panel required 411 (Appendix 13) days from intake to decision (includes MP requests that were in the backlog).
- About 55% of injured workers and employers chose to be represented by an Appeals Advisor in the AC, 40% were represented by private advocates and the remaining 5% were self-represented. The Appeals Advisors were successful in reversing or varying 45% of the decisions, compared to private advocates and self-represented who had a 35% success rate.

Findings from Jurisdictional Scan

- Workers and employers in Alberta have one year to submit a request for review to the WCB, while in BC the limit is 75 days, SK and MB have no time limit, and in ON the time limit is 30 days for return- work-decisions and 6 months for other decisions.
- Alberta's review body (DRDRB) upholds 80% of the decisions made by the Claim Owner, which is higher than in any of the other provinces (BC-60%, ON-72%, SK and MB 75%).
- Alberta is the only jurisdiction in which the review body has a participative approach with the Claim Owner during the review. In other jurisdictions, the review is done independent of the Claim Owner.
- SK is the only jurisdiction where the appeal tribunal is not external to the WCB.
- The proportion of requests for review that get escalated to the Appeals Commission (tribunals) in Alberta is 28%, which in absolute numbers is higher than in other provinces where the ratio is between 16% to 25%, notwithstanding the differences that exist between the systems.
- AB and MB hold more in-person hearings at 75% and 86% respectively at the tribunal/appeal level, compared to BC (38%) and ON (32%). BC and ON have higher proportion of documents-only hearings at appeal.
- AB has a higher proportion (44%) of Review Body decisions reversed or varied at the tribunal/appeal level, compared to BC and MB where the tribunal reverses or varies 30% and 37% of decisions respectively.

- The timing and type of medical consultations done by the Claim Owner varies from one WCB to another. BC has a time bound threshold for escalating the medical file, Alberta does not.
- Alberta has the lowest ratio of referrals to Medical Consultants (27%) per active case management file (new lost time claims plus claims open from previous years) compared to the other provinces e.g. BC (64%).
- AB has Independent Medical Examiners and other provinces have similar services available for expert medical opinions. MB allows medical advisors to perform physical examinations if needed, BC has independent physicians that may examine the worker, and in SK and ON a multidisciplinary assessment may be used to provide expert medical opinion. Multi-disciplinary assessments are also available in Alberta for fitness for work, or treatment needs.
- The proportion of IMEs to files in case management (new lost time claims plus claims open from previous years) is lower in Alberta (2%) compared to SK (12%) and MB (16%) but higher than BC (1%).
- ON has a Medical Liaison Office which helps prevent medical disputes by conducting medical file reviews on cases with medical complexities prior to the appeal.
- AB, SK, and MB have Medical Panels or equivalent, though their function and process varies. A medical panel (or equivalent) may be requested at any time in the dispute process in AB and MB. In SK they can only be requested after the final level of appeal and only by a worker.
- The number of medical panels in AB, SK, and MB are very small (below 15 per year) indicating the highly specialized nature of the panel. BC and ON do not have an equivalent body.
- All the jurisdictions have system funded appeal advisors for workers. AB, BC, and ON also have appeals advisors for employers.
- Alberta is the only province where the system funded appeals advisors are administered by the Appeals Commission which is within the system. In all other provinces they are part of a provincial ministry, therefore outside the system.
- ON requires private advocates to be certified by the provincial law society. No other province has any professional or regulatory requirements for the private advocates.

E. Recommendations

Based on a thorough analysis of the facts and evidence gathered for this review we have made 22

recommendations. Our recommendations attempt to address the issues that stakeholders have been experiencing in the medical review and appeals processes. A list of impacts on key stakeholders and on the system is available in the implementation section of this report. In addition to the recommendations, throughout this report there are many additional opportunities worthy of consideration, as well as examples of practices in other jurisdictions worth adopting.

Our analysis indicates that the cumulative impact of the recommendations will be a 15-30% reduction in referrals to DRDRB, AC, Medical Consultant, and IME. In addition, the report identifies opportunities for reducing the process durations in DRDRB, AC, and MP by about 60-100 days. Financial analysis indicates that when implemented, the recommendations could deliver savings of approximately \$3.0 million per year for the system. This translates to quantifiable net savings of about \$10 million in present value terms over the next five years. These savings do not include the intangible benefits that would be realized from qualitative improvements in the processes and in the experience of the stakeholders. The decrease in waiting time will also have economic benefits by facilitating earlier return to work for hundreds of injured workers, but are difficult to estimate.

The critical success factor for realizing the benefits depends on successfully aligning and improving the upstream processes i.e. adjudication decision and communication, medical consultant referrals, and DRDRB decision review. Implementing the recommended changes will require executive intent and willingness to make the changes. Commitment from the leadership of the WCB and the AC will be critical for success.

The recommendations, when implemented, will improve the experience of all the system stakeholders including those who deliver these services. The implementation of these recommendations should be grounded in the principle that the quality of experience during dispute resolution measured in fairness, transparency, efficiency, and timeliness needs to be improved. While operational and policy improvements will bring about the initial change, long-term success will depend on sustaining the recommended changes.

Alberta’s WCS is among the better performing workers’ compensation systems in Canada based on the metrics that are reported by all provincial systems. With the recommended changes Alberta will clearly demonstrate its commitment to improving the experience of those workers and employers who are not satisfied with WCB’s decisions, and to providing them a better chance to amends as needed.

i. Summary of Recommendations

#	Recommendation	Page #	Lead	Highest Level of Required Change		
				Legislation	Policy	Operations

WCS Medical and Appeals Performance Review

1	Clearly define the nature of the statutory decision review including the authority and accountability of the Review Body referred to in WCA section 9.3/9.4.	51	WCB		√	
2	Require an independent review of the medical file when a medical dispute remains unresolved and determine an appropriate timing of this review.	58	WCB		√	
3	Continue risk assessment and strategies to mitigate potential challenges emerging from the reorganization of the Appeals Advisors with the Appeals Commission.	61	AC			√
4	Facilitate sharing of relevant worker data, under appropriate assurances, which the Employer Appeal Advisors are entitled to for conducting their statutory responsibilities.	64	WCB		√	
5	a) Create an information strategy that supports alignment in data definition and data capture for better performance management of medical and appeals processes across system agencies.	67	WCB			√
	b) Create reporting standards with common indicators and measurements for reporting the operational performance of decision review and appeals seamlessly among system agencies.		WCB			√
6	a) Strengthen the quality control and quality assurance practices for all key determinants of process outcome such as: MC memo, adjudication decision letter, DRDRB hearing and decision making, AC information package and hearing, MP hearing, and AA initial review and representation.	72	WCB, AC			√
	b) The Workers' Compensation System report annually on analysis of trends for disputed decisions and the quality assurance of decision-making processes from adjudication to appeals.		WCB, AC			√
7	a) Revise the decision letter template to include information about supports available for workers and employers seeking clarification or dispute resolution.	82	WCB			√
	b) Enhance the quality control of decision letters before they are sent out.		WCB			√

#	Recommendation	Page #	Lead	Highest Level of Required Change		
				Legislation	Policy	Operations

WCS Medical and Appeals Performance Review

	c) Enhance the assurance audit of decision letters to include factors that improve the communication value of the letter, in alignment with the decision letter style guide.		WCB			√
	d) Adopt a continuous improvement approach to decision writing skills with feedback and re-training.		WCB			√
8	Redefine the role of the system funded Appeals Advisor to extend their advisory role in the early stages of dispute i.e. disagreement with the decision letter.	84	AC		√	
9	Structure the 30-day duration for CSD resolution and implementation to be utilized in value adding collaborative actions.	86	WCB			√
10	a) Address the issues that cause high rates of postponement in the DRDRB, and target to eliminate postponement occurring due to avoidable reasons.	90	WCB			√
	b) Report the actual days for completion of reviews to reflect the real-life experience of workers and employers, and manage performance based on that metric.		WCB			√
11	a) Define a clear governance and organizational model for the DRDRB to create an independent and arms-length operation from CSD. Delink the DRDRB role from any quality assurance or learning outcomes for CSD.	92	WCB		√	
	b) Redefine the decision-making model of the DRDRB to better align with expectations of a statutory decision review.		WCB		√	
12	Clarify the interpretation and application of policies where there are frequent differences between the Claim Owner, DRDRB, and AC decisions based on analysis of trends.	96	WCB			√
13	Review the practice of DRDRB sending back a case for re-adjudication when new evidence is related to a decision in dispute.	98	WCB			√
14	a) The AC take appropriate steps to reduce the time between intake and hearing date, and between hearing and decision date for appeals that have fewer or less complex issues, to within service standards.	102	AC			√
	b) The AC address the issues that cause high rates of postponement. Target to eliminate		AC			√

#	Recommendation	Page #	Lead	Highest Level of Required Change		
				Legislation	Policy	Operations
	postponement (or adjournment) occurring due to avoidable reasons.					

WCS Medical and Appeals Performance Review

	c) The AC report the average duration for each type of appeal so the duration reflects the real experience of appellants.		AC			√
15	Facilitate one to one follow up between the Treating Physician and the Claim Owner, with the support of a medical professional, when only a clarification or additional information on a medical opinion is needed.	115	WCB		√	
16	Require a mandatory contact between the Treating Physician and the Medical Consultant when the Medical Consultant is providing a medical opinion that is different from that of the Treating Physician.	119	WCB		√	
17	a) Update Medical Consultant memo audit tool to include factors that improve quality of process such as completion of contact with the Treating Physician, and information sharing with Treating Physician.	122	WCB			√
	b) Review the service standards and incentive plan for the Medical Consultant to improve balance in incentives for timeliness, quality of process, and quality of output.		WCB			√
18	a) Allow the Appeal Commission to consult a medical professional when framing questions for a Medical Panel.	128	AC		√	
	b) Allow the Medical Panel to clarify a medical question before the hearing.		AC		√	
19	Streamline the Medical Panel selection process by removing the option given to the worker, employer and the WCB for choosing a Medical Panel member. Allow the MPC to appoint the Medical Panel from the eligibility list.	130	L&I	√		
20	Make selection of Medical Panel members and hearing date easier and faster by using enabling technology.	131	AC			√
21	a) Continue the Employer Appeals Advisor service and rationalize services between the Employer Advisors Branch (EAB) and the Employer Appeals Consulting (EAC) service to reduce duplication.	139	WCB, AC			√
	b) Improve awareness among stakeholders of the availability of the Appeals Advisor service through better communication and promotion.		AC			√