

POLICY NUMBER: POL-04

**Chapter:
GENERAL**

**Subject:
ACCESS TO WORKER CLAIM INFORMATION**

**Effective Date:
November 18, 1993**

**Last Update:
June 1, 2021**

PURPOSE STATEMENT:

The purpose of this policy is to provide appropriate access to worker claim file information.

REFERENCE:

Workers Compensation Act R.S.P.E.I. 1988, Cap. W-7.1, Section 83
Freedom of Information and Protection of Privacy Act R.S.P.E.I. 1988, Cap. F-15.01, Sections 1,
15, 37

DEFINITION:

In this policy:

“Authorized representative” means an individual with written authority from a worker or employer to act on behalf of them, including accessing information held by the Workers Compensation Board.

“Person with a direct interest” related to a claim decision means the worker or dependants of the deceased worker, the accident employer where the decision has a direct financial, legal or operational impact on that employer, and the Workers Compensation Board.

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POLICY:

1. When a claim is filed for compensation, the Workers Compensation Board (WCB) is entrusted with personal information that is required to administer the claim.
2. All worker claim information is considered personal information. The WCB ensures that any disclosure is done in compliance with the *Workers Compensation Act* and the *Freedom of Information and Protection of Privacy (FOIPP) Act*.
3. The WCB is committed to protecting the privacy of personal information. Disclosure of claim information is limited to only what is reasonably required for fairness and accountability in claim administration, and as otherwise authorized by law.

Routine Claim Communications

4. The WCB will maintain open communication with workers, or their dependants in the case of deceased workers, throughout the duration of their claim.
5. The WCB also communicates with the worker's employer, health care providers and other service providers in the course of managing a claim. This communication may require disclosure of the worker's personal information.
6. Examples of claim activities where the WCB may be required to disclose personal information include, but are not limited to:
 - Explaining a claim decision.
 - Determining the nature and cause of a workplace injury.
 - Determining entitlement to benefits and services.
 - Requesting medical information.
 - Authorizing treatment and medications.
 - Arranging assessments.
 - Determining fitness for work.
 - Facilitating a return to work or vocational rehabilitation plan.
 - Managing employer accounts related to claim costs.
 - Providing information required to pursue appeal rights.

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7. Disclosure of claim information may occur verbally or in written claims communications. It may be disclosed proactively as determined necessary by the WCB or in response to claim inquiries. In all cases, the WCB will ensure that:
- The disclosure is required for the purposes of managing the claim, or otherwise authorized by law.
 - The individual is authorized to have access to the information.
 - The disclosure is limited to relevant information only.
 - No more than the minimum information necessary to achieve the purpose is disclosed.

Claim Decision Letters

8. In addition to routine claim communications, the WCB will provide claim decision letters to the worker and the worker's employer, if the employer is a person with a direct interest in the decision.
9. In the decision letter to the worker, the WCB will explain the reasons for the decision, including the application of legislation and policies used in the decision making process and the significance of the evidence. The WCB will reference or include the information that was used to make the decision.
10. In the decision letter to the employer, the WCB will explain the application of the legislation and policies used in the decision making process. The letter will explain the basis for the decision while limiting the disclosure of the worker's personal information to the minimum necessary.

The WCB will not disclose specific medical, family or social details or history, pre-existing conditions or other information that is not work-related, but may summarize generally that these factors were considered in the decision, if that is relevant.

11. If an employer requests more information about a decision, the WCB will determine whether the employer requires the information to clarify an issue in dispute. If there is a stated issue, the WCB may summarize additional relevant information. If this additional disclosure is not sufficient, the employer may request access to the claim file documents.

Access to Claim File Documents

Worker Access

12. Workers have the right to access all documents on their claim file, subject to any exceptions under the *FOIPP Act*.
13. The WCB will provide the worker with their claim file and any file updates, free of charge.
14. On request from the worker, the WCB may provide specific documents from the claim file. The request must specify the type and date of the requested information.

Dependant Access

15. In the case of a deceased worker, the worker's dependants may request, in writing, the claim file documents. The WCB will provide the information it determines to be relevant to the dependants' entitlement to compensation benefits and services.

Employer Access

16. A worker's employer may be provided with access to claim file documents if all of the following criteria are met:
 - The request clearly identifies an issue in dispute.
 - The employer is a person with a direct interest in the issue.
 - The request is in writing. An **Employer's Request for Worker Claim File and Authorization** (CL-04) available.
17. If the request meets the criteria, the WCB will provide the employer with the information it determines to be relevant to the issue in dispute, free of charge.
18. The WCB will ensure that only the information relevant to the issue is released. To determine relevancy, the WCB will consider whether the information has a reasonable connection to the issue in dispute and has value in proving or disproving evidence used in making the decision. Relevancy will be determined on a case by case basis.

Where sensitive medical information (physical or psychological) is involved, the WCB will ensure that family or social details or history, specific pre-existing conditions and other information that is not work-related is not included in the file. The WCB may replace the information with general headings of factors, if they were considered in the issue. Only relevant background information and conclusions are considered for disclosure to the employer.

19. Employers are not authorized use the claim information for any reason other than the pursuit of the issue in dispute.
20. The worker will be advised in writing when claim file documents are being provided to the employer.

Authorized Individuals

21. Before releasing any information, the WCB will ensure that claim information is disclosed only to individuals who are authorized and the identity of the individuals is verified.
22. Workers are authorized to access all of their personal claim information, subject to exceptions under the *FOIPP Act*.
23. A worker may authorize a representative to act on their behalf for claim communications and access to claim file documents. The worker must provide their authorization in writing on a **Worker's Authorization for Communication and Representative** (CL-05) or other form acceptable to the WCB. The worker may provide verbal permission to discuss claim matters with another individual who is in their presence.
24. An employer may authorize a representative to act on their behalf for claim communications and access to claim file documents. The employer must provide authorization in writing on the **Employer's Request for Worker Claim File and Authorization** (CL-04) or other form acceptable to the WCB.
25. Authorizations will remain in effect until the WCB is notified otherwise.

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26. If a worker is incapacitated, the WCB may communicate limited claim information to the worker's family or caregiver to ensure that the worker has access to appropriate benefits and services.

Third Party Requests for Claim Information

27. The WCB will respond to written requests for claim information where there is a legal obligation to disclose. Examples include, but are not limited to, requests from courts, law enforcement agencies, maintenance enforcement officials, and employment insurance officials.
28. The WCB may have information sharing agreements in place with other compensation boards, government departments or agencies, associations, or research entities. Claim information will be disclosed based on the provisions in the agreements.
29. For all other requests from third parties, such as banks and private insurance companies, the worker's written consent must be received by the WCB before information will be disclosed. The exceptions are where the WCB is authorized by law or is pursuing legal action on the claim.

The consent must be in a form acceptable to the WCB, specifically naming the third party and clearly stating the information that can be disclosed.

Unauthorized Disclosure

30. The WCB takes all reasonable precautions to protect the privacy of personal information. In the event of unauthorized disclosure, the WCB will take steps to contain the unauthorized disclosure and to recover the personal information. The situation is evaluated to determine the individuals affected, the type of information, and the cause of the unauthorized disclosure. Affected individuals are notified as appropriate and the WCB takes measures to prevent similar occurrences in the future.

HISTORY:

June 1, 2021 – Non-substantive changes to form names.

January 28, 2021 – Amended to allow for verbal authorization of representatives and limited

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disclosure in the event of incapacitated workers. New content added on routine communications, claim decision letters, third party requests and unauthorized disclosure. Existing content on access to claim file documents was clarified. Requirements for additional file fees and written requests from workers were removed. Non-substantive editorial changes were made, including a revised title (formerly, Access to Information – Worker Claim Files).

April 4, 2016 - Amended to include a requirement to confirm the identity of the recipient prior to release of information and clarification of fees for copies to additional representatives.

May 22, 2014 - Amended to remove the requirement for the worker's employer to be an applicant or participant in a reconsideration or appeal in order to make a request for access to information in the worker's claim file. Also, the consent requirement from the worker for the release of relevant information to the worker's employer was removed.

October 24, 2013 - Amended to provide clarity with respect to releasing information on a worker's claim file to the employer and employer representative.

December 16, 2010 - Amended to provide clarity for releasing a file to an authorized representative, removed the section on audio taping, and clarified that information can be shared for purposes of the Interjurisdictional Agreement.

September 27, 2007 - Amended to clarify that documents in the worker's file will not be released individually. Also, files will only be delivered by way of courier unless collected at the Workers Compensation Board and signed for.

October 26, 2006 - Amended the policy to clarify how the Workers Compensation Board will handle requests for audio recordings that are part of the worker's file.

October 20, 2003 - Amended to clarify that workers are entitled to a copy of their file even in the absence of a *bona fides* issue in dispute. In addition, one copy of an audio or video recording associated with a file will be provided free of charge as part of the file release process. Removed the term "Worker" from the definition section of this policy.

March 27, 2003 - Amended to ensure the definition of "employer" is consistent with the definition provided in the *Workers Compensation Act*.

November 27, 2002 - Amended to add CL-05, Release of Information (Form "B").

July 25, 2002 - Amended to: (1) replace Policy and Practice "Agreement to Exchange Information and Assign Disability Benefits Between the Board and Federal & Provincial

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Government Departments, Agencies and Crown Corporations” dated March 9, 1998; (2) replace Policy and Practice “Information Reports/Complaints” dated November 15, 1994; (3) replace Policy and Practice “Provision of Medical Information to Physicians / Chiropractors” dated November 15, 1994; (4) replace Policy and Practice “Family Physician Notification” dated November 15, 1994; (5) replace Policy and Practice “Functional Assessments - Release Policy” dated June 17, 1993; (6) incorporates a reference to previous “Form “A” - Worker’s Authorization for Release of Information which has been formatted, numbered and indexed as an official form; and (7) incorporate a reference to previous “Form “D” - Employer’s Request for Information on a Worker which has been formatted, numbered and indexed as an official form.

October 19, 2000 - Replaces Policy and Practice (1) Files - Copying for Claimants dated November 18, 1993 and (2) Files - Release of Documents, Information, and Medical Reports date November 18, 1993.

Board of Directors Approval Date: November 18, 1993