

REVIEW DIVISION

PRACTICES AND PROCEDURES SUMMARY OF PROPOSED UPDATES

Effective Date: **December 6, 2004**

<i>Section</i>	<i>Title</i>	<i>Proposed Update</i>
	Introduction	Updated to reflect the reorganization of the Board.
A1	Prior to making a request for review	Updated to reflect the reorganization of the Board.
A2.6	Parties to the review	The last paragraph states that, though the operating divisions of the Board are not parties, the Prevention and Finance Divisions may be asked to provide additional information. This has been generalized to state that any division may be asked for further information. In practice, most (if not all) decisions will be issued by one division in future, the Workers and Employer Services Division. See B3.10.
A2.8	Withdrawal /Abandonment of a review	Clarified to state that the specific situations set out where a request for withdrawal may be refused are only examples and that an error of law or policy does not have to be in favour of the applicant for a request to be refused.
A3.2	Read and review	Delete the statement that read and review will be used in most cases.
A3.5	Written submissions	<p>Change 28 days to 34 days for initial submissions in the case of compensation reviews in accordance with current practice.</p> <p>Add a statement that in some straightforward cases, a decision may be made on the review without obtaining written submissions.</p> <p>Refer to the new requirement to complete a submissions form sent out by the Review Division.</p> <p>Ad a statement that the final rebuttal submission from the applicant “may” be disclosed to the respondent for information purposes.</p> <p>Clarify that if a late submission is received, it should not only be disclosed to the party but that party should be given sufficient time to respond. This may</p>

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		<p>involve seeking an extension of the 150 days for making a decision.</p> <p>Add a statement that written submissions are not normally requested when a request for an oral hearing is granted at the outset of the review.</p> <p>Move to Item B3.5 material on exceptions.</p>
A3.6	New matters arising	<p>Two new subheadings have been created, one for new evidence and one for new issues.</p> <p>The text on new evidence is amended allow greater flexibility as to how new information is obtained and when and how it is disclosed. In particular, only “significant” new information need be disclosed where a party is “adversely affected” and this disclosure may take place in some cases in person or over the telephone.</p> <p>The text on new issues has been rewritten to state more clearly when Review Officers will deal with decisions or issues not originally under review.</p>
A3.7	Evidence	Add to the list of types of evidence that can be obtained “information provided over the telephone or during a meeting”.
A3.8 (Old section number and title)	One hundred day fast track	Deleted as this process has not worked in practice.
A4.2	Application of Board Policy	Paragraph referring to practice directives and guidelines updated to reflect the reorganization of the Board.
B1.1	Decisions not supported by reasons	Content of former B1.2 and B1.2 generalized and merged.
B2.1.1	Administrative decisions	A statement added that no review may be requested of a Statement of Issues or Statement of Foundational Non-medical Facts prepared by the Board in connection with an appeal to the Medical Review Panel as stated in Policy #103.60.
B2.1.3	Reopenings	Including the meaning of “application” as specified in Review Division and WCAT decisions.

<i>Section</i>	<i>Title</i>	<i>Proposed Update</i>
B2.1.6	Prevention Decisions	Updated to reflect the reorganization of the Board.
B2.3.1	Forms of authorization	Add a statement that, if an authorization expires after a review has commenced, the authorization will be considered acceptable up to the end of the current review. Add a statement that, if the authorization on the request for review form is used, this only lasts for the duration of that review.
B2.3.2	Standard conduct of representatives	The Review Division's own standard has been deleted and replaced by a reference to the Board standard on the Board's internet site.
B2.4.1	Calculating the time limit for requesting a review	The specific references to the different provisions of section 221 of the <i>Act</i> have been reduced and replaced by a general reference. This is due to the increased length of the section resulting from recent amendments.
B2.4.2	Extensions of time	Add reference to section 96(6) allowing the Chief Review Officer to delegate extensions of time.
B2.5.1	Constitutional Challenges	Deleted
B2.6.1.2	Deemed employers	Add reference to section 96.6 allowing the Chief Review Officer to delegate the deeming of employers.
B2.9.1	Stays or suspensions of decision under review	Add reference to section 96.6 allowing the Chief Review Officer to delegate the granting of stays. This item currently states that, if an applicant files a written submission concerning a stay separately, it must be filed within 14 days after filing the request for review. This has been replaced by a statement that requests for stays may not be separately considered if the decision on the review is about to be made.
B3.3	Read and review with additional inquiries	The first paragraph has been rewritten to clarify the relationship of informal inquiries to oral hearings.
B3.4.1	Eligibility for oral hearing	A statement has been added that, where possible, an informal inquiry under Item B3.3 will be used in place of an oral hearing. The statement regarding administrative penalties has

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		been moved to Item B3.3 to clarify that an informal inquiry may take place in stead of a full oral hearing where appropriate.
B3.4.2	Process for making decision on oral hearing	New heading for existing material. A statement has been added that a decision refusing an oral hearing cannot be appealed.
B3.4.5	Witnesses	New heading and material, but no change in practice.
B3.4.6	Observers	New heading and material, but no change in practice.
B3.4.7	Interpreters	New heading and material, but no change in practice.
B3.4.8	Hearing process	New heading and material, but no change in practice.
B3.4.9	Adjournments	New heading and material, but no change in practice.
B3.4.10	Disruptive behaviour	New heading and material, but no change in practice.
B3.4.11	Record of the hearing	New heading and material, but no change in practice.
B3.4.12	Materials obtained during and after hearing	Material formerly in Item B3.5
B3.5	Written submissions	Move existing material to Item B3.4.12
B3.9	Time limits on reaching decisions	Add reference to section 96.6 allowing the Chief Review Officer to delegate the granting of suspensions and extensions. Separate sections created on suspensions and extensions with revised and updated criteria for both.
B3.10	Role of Board officers in reviews	Existing items on prevention and assessment have been replaced by general guidelines covering all Board officers.
B4.4	Referrals back to initial decision maker	The existing section allows a referral back with regard to issues not previously decided. This has been deleted as it is not clear what it covers. If an issue has not previously been decided, a formal referral back should not be needed and there may be a question whether the Review Officer has jurisdiction to deal with it at all.

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		<p>A statement has been added to recognize the practice that a referral back may be made where the original decision maker wishes to change the original decision but is prevented from doing so by the limitations on reconsiderations in section 96(5) of the Act.</p>
B4.5	Costs and expenses	<p>A statement has been added that, with regard to medical reports, the Review Division will normally limit reimbursement to the rate allowed by the Board's tariff or general practice.</p> <p>Delete the paragraph on section 57 as it is not material to this topic.</p>
B5.2	Reconsiderations of Review Division Decisions	<p>Add reference to section 96.6 allowing the Chief Review Officer to delegate the granting of reconsiderations.</p> <p>The current section states as one of the grounds for reconsideration at the initiative of the Chief Review Officer that the decision contains a significant error having broad systemic impact. This has been changed to refer to decisions based on a clear error of law or policy.</p> <p>A statement has been added that the authority of the Chief Review Officer to reconsider on his own initiative may in practice be done on someone's request. It is also noted that since only 23 days is allowed to make a decision an adversely affected party may only be granted a short time to make submissions.</p>
C1	Glossary of Terms	<p>Minor amendments made to the definition of "decision" and "order" to avoid duplication.</p>