

**Operational
Policy**

Section
Access to Claim File Information

Subject
**Disclosure of Claim File Information to Worker or Employer
Representatives**

Policy

All claim file information is considered personal information under *The Freedom of Information and Protection of Privacy Act* (FIPPA) and may be disclosed in limited circumstances in accordance with various exceptions listed in FIPPA. FIPPA and the *Workplace Safety and Insurance Act* (WSIA) permit disclosure of personal information to worker or employer representatives where the authorization or permission of the worker or the employer, as the case may be, has been obtained.

When authorization has been obtained, and when the authenticity of the representative is not in doubt, disclosure to the representative is allowed in the same manner as it would be to the worker or the employer.

In all cases, therefore, WSIB staff must take reasonable steps to verify the authenticity of the person requesting information, and the authorization of the worker or the employer, before any information is disclosed. Such steps may include

- calling the worker, employer, or representative, and
- requesting a claim number, account number, or other verification information.

Guidelines

This document should be read in conjunction with 21-02-01, Disclosure of Claim File Information - General.

NOTE

The information in this policy dealing with employer representatives only applies to employer representatives seeking access to claim file information. For information on employer representatives and disclosure of employer account information, see 21-01-01, Access to Employer Information.

Definitions

Authorized representative means a person, firm or organization that has been licensed under the *Law Society Act*, or is exempt from the *Law Society Act* licensing requirements, and who has the worker's or employer's written consent (authorization) to represent him, her or it in relation to a WSIB claim file. Such representatives include, but are not limited to

- lawyers
- paralegals
- union or bargaining agent representatives
- representatives from the Office of the Worker Adviser or the Office of the Employer Adviser
- Constituency Assistants working in MPP offices
- Aboriginal Court Workers
- Injured Workers Outreach Services, and

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- Ontario Federation of Labour staff and consultants representing union members in workers' compensation matters (under the Occupational Disability Response Team), including their work in representing families of deceased workers.

Informal representative means a friend or family member who helps the workplace party gain information about a claim, but does not charge a fee for this service.

Personal representative means anyone with the legal authority to administer the estate of a deceased worker, including executors and administrators.

Authorized representatives

The WSIB must be notified in writing of the authorization of representatives before such representatives are given verbal information about the claim, copies of the claim file documents (including WSIB decision letters), or written status information. Such authorizations must be signed by the worker or the employer, as the case may be.

NOTE

Authorized worker and employer representatives are entitled to be copied when the WSIB issues a decision letter in a claim to which the authorization applies.

Unless notified otherwise, the WSIB assumes the continuing validity of a worker or employer representative's authorization. Therefore, the onus is on the worker or employer to notify the WSIB for each claim if the authorization is cancelled or a new representative is selected.

Special guidelines apply, as noted below, when the authorized representative is a union, an MPPs office, or the Office of the Worker Adviser or Employer Adviser.

Representatives on more than one claim

Workers and employers who want a specific representative to represent them on all their claims must ensure that separate, written and signed authorizations are on file in each claim. This is true even if the same individual or firm represents them on all claims.

Claim information (verbal or written) can **only** be disclosed to the representative if a written and signed authorization is on file in the claim under which the request is made.

Union representatives

Unions and their staff must submit written and signed authorizations only when requesting actual copies of claim file documents (including WSIB decision letters) or written status information about the claim. Separate authorizations must be received for each claim file in which such disclosure is sought.

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When requesting verbal information, union representatives need only provide

- verbal assurance of authorization, and
- the worker's claim number.

NOTE

A worker's check mark(s) in the relevant section of the Form 6 (Worker's Report of Injury/Disease) provides (1) authorization for a union to represent the worker in matters before the WSIB, and (2) consent for the disclosure of verbal claim file status information to the union representative. Before actual copies of claim file documents can be disclosed, however, a signed, written authorization from the worker must be received.

MPPs and the Offices of the Worker/Employer Adviser

MPPs and their staff, as well as staff members from the Office of the Worker Adviser or the Office of the Employer Adviser, must submit written and signed authorizations only when requesting actual copies of claim file documents (including WSIB decision letters) or written status information about the claim. Separate authorizations must be received for each claim file in which such disclosure is sought.

When requesting verbal information, MPPs and their staff, as well as staff members from the Office of the Worker Adviser or the Office of the Employer Adviser, need only provide

- verbal assurance of authorization, and
- the worker's claim number.

Informal representatives

Friends or family members who are assisting a worker or employer with a claim, without charging a fee, must have the authorization or permission of the worker or employer before any claim file information can be disclosed.

Evidence of permission is generally provided when the informal representative can cite the relevant claim number and/or answer other verification questions about the claim.

Where permission is clear, informal representatives may only obtain verbal information about the status of a claim. They are **not** entitled to copies of claim file documents.

Where permission is not clear, written authorization is required.

NOTE

In all discussions with informal representatives, disclosure of claim file information is limited to the information that is necessary to assist the representative in resolving the issue(s) that gave rise to the request.

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Representatives****Personal representatives**

A deceased worker's personal representative has a right of access to claim file information, in the same manner that the worker would have had, if disclosure of the information

- is related to the administration of the worker's estate, or
- fulfills a purpose of the WSIA, such as determining entitlement to survivor's benefits.

Any personal representative seeking access to a deceased worker's claim file must establish their legal authority by providing

- a copy of the will
- a letter from the lawyer handling the estate, or
- an equivalent official document.

If decision-makers are unsure of a personal representative's legal authority, the WSIB's Legal Services Branch should be contacted.

For specific limitations on a personal representative's right of access where there is an issue in dispute, see 21-02-02, Disclosure of Claim File Information (Issue in Dispute).

Application date

This policy applies to all decisions relating to the disclosure of claim file information made on or after October 14, 2009, for all accidents.

Document History

This document replaces 21-02-04 dated February 20, 2006.

This document was previously published as:

21-02-04 dated January 3, 2006

21-02-04 dated October 12, 2004.

References**Legislative Authority**

Workplace Safety and Insurance Act, 1997, as amended
Sections 57, 58, 181

Workers' Compensation Act, R.S.O. 1990, as amended
Sections 71, 114

Freedom of Information and Protection of Privacy Act, R.S.O. 1990, as amended
Sections 10, 42, 43, 66(a)

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Minute

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