



Practice Direction #4

How to Prepare an Appeal at the WSIAT

1.0 This Practice Direction

- explains how the WSIAT processes an appeal after all parties receive the Case Record
- identifies the letters and forms that parties will get from the WSIAT
- outlines the responsibilities of the parties
- lists the timelines of this stage in the appeal

2.0 Issues on Appeal Letter

2.1 After the parties receive the Case Record, WSIAT staff will review all the information provided. The WSIAT will determine if the appeal is ready for a hearing. If it is, the WSIAT will prepare an Issues on Appeal Letter. The WSIAT will send it to the parties with a Hearing Ready Form.

2.2 The purpose of the Issues on Appeal Letter is to

- confirm who is participating in the appeal (the parties and representatives)
- identify the final Workplace Safety and Insurance Board (WSIB) decision(s) on appeal
- identify the issue(s) on appeal
- identify the hearing format (videoconference, teleconference, in-person, or in writing)
- ask parties for any new evidence
- ask parties for any written submissions
- ask parties for information on any witness(es) they want to testify at an oral hearing

2.3 Parties must review the Issues on Appeal Letter. They must advise the WSIAT of any concerns, especially if they believe the issues on appeal are not correct.

They must

- complete and return the Hearing Ready Form
- attach any new information (evidence or submissions) they want the WSIAT to consider

3.0 Hearing Ready Form

3.1 The purpose of the Hearing Ready Form is to

- provide an outline of key evidence and relevant law, policies and/or legal precedents
- file any new evidence
- file submissions for hearings in writing
- advise the WSIAT and other parties about witnesses for oral hearings

3.2 Parties must send any new evidence they want the WSIAT to consider in the appeal with the Hearing Ready Form.

3.3 Written submissions should

- be easy to read
- clearly identify the issue(s) on appeal
- outline the relevant facts in the order they occurred
- refer to the relevant evidence and how it relates to the facts in the appeal
- identify any relevant law and policy and connect it to the facts in the case
- state the outcome or benefits being requested
- clearly identify the documents that are referred to by date, author and page number in the case materials

3.4 Parties must send the completed Hearing Ready Form and any attachments to any other participating parties or their representatives. Then, send it to the WSIAT.

4.0 Time to File – Hearing Ready Form

- 4.1 Appellants have 4 weeks from the date of the Issues on Appeal Letter to complete and return their Hearing Ready Form. They must return the form even if they have nothing further to add to the appeal. They must also send a copy of the form and any evidence or submissions to any other participating party. Then, send it to the WSIAT.
- 4.2 If the appellant is not ready to complete their Hearing Ready Form, they must complete and return the Not Ready for Hearing Form within 4 weeks. The WSIAT will then place the appeal into inactive status.
- 4.3 If the WSIAT does not receive the appellant's Hearing Ready Form or Not Ready for Hearing Form within 4 weeks, the WSIAT may close the appeal.
- 4.4 The WSIAT will send written confirmation to all participating parties when the appellant's Hearing Ready Form is on file.
- 4.5 Respondents have 4 weeks from the date of their Issues on Appeal letter to complete and return their Hearing Ready Form. They must return the form even if they do not have anything else to add to the appeal. They must also send a copy of the form and any evidence or submissions to the appellant or their representative. Then, send it to the WSIAT.
- 4.6 If the respondent is not ready to provide their Hearing Ready Form, they must complete and return the Not Ready for Hearing Form within 4 weeks. WSIAT staff will review the form and may place the appeal into inactive status.
- 4.7 If the WSIAT does not receive the respondent's Hearing Ready Form or Not Ready for Hearing Form within 4 weeks, the WSIAT will assume that the respondent does not have anything to add to the appeal. The WSIAT will then prepare the appeal for the hearing.

5.0 Time to File – Reply

- 5.1 For hearings in writing, the appellant has the last right of reply. If the appellant would like to submit reply evidence or submissions, they must do so within 2 weeks of receiving the respondent's Hearing Ready Form, evidence and/or submissions.

5.2 For oral hearings, both parties can submit additional information within 2 weeks of receiving the respondent's Hearing Ready Form, evidence and/or submissions.

6.0 Hearing Ready Letter

6.1 When the WSIAT has received all evidence and/or submissions, WSIAT staff will confirm that the appeal is ready for the hearing. The WSIAT will prepare and send the Hearing Ready Letter to the parties.

6.2 The purpose of the Hearing Ready Letter is to confirm the details of the appeal, including

- the issue(s) on appeal
- the hearing format
- any involvement of the WSIAT Medical Liaison Office
- any interpreter(s) that will be attending the hearing
- any witness(es) expected to testify at the hearing and any summonses that will be issued to compel their attendance
- any accommodation that will be made for the hearing
- any details that the WSIAT determines may be important for the Vice-Chair or Panel to be aware of in preparation for the hearing

The details in the Hearing Ready Letter allow the WSIAT to schedule an appropriate amount of hearing time for each appeal.

6.3 Parties must review all of the details in the Hearing Ready Letter. If parties have any concerns with the information in the Hearing Ready Letter, they should contact the WSIAT promptly. That way, issues that could delay an appeal are addressed as soon as possible.

6.4 The issues on appeal are particularly important. If parties believe the issues are not correct on the Hearing Ready Letter, they must tell the WSIAT as soon as possible.

6.5 Sometimes there may be disagreements about the issues or the issues might be unclear. Ultimately, the Vice-Chair or Panel hearing the appeal will decide the issue agenda.

- 6.6 After the Hearing Ready Letter has been sent to the parties, the Scheduling Department will arrange the hearing date.
- 6.7 For hearings in writing, the WSIAT will send the decision to the parties once it is made.
- 6.8 For in-person, videoconference, and teleconference oral hearings, the WSIAT will send the parties a proposed time, date, and location or connection details for the hearing. This will be confirmed later if there are no objections to the proposed hearing date.

7.0 References and Resources

7.1 Legislative Authority

Workplace Safety and Insurance Act, 1997, section 131 (the WSIAT can determine its own practice and procedure)

7.2 Related Practice Directions

#5 – Hearing Formats

#8 – Disclosure

#9 – Evidence

#24 – Inactive Appeals

#26 – Closing Appeals by the WSIAT

#33 – Role of the Vice-Chair Registrar at the WSIAT

#36 – Delivery and Filing Documents

7.3 Guide

WSIAT Guide to Medical Information and Medical Assessors