

**Presentation to the Annual  
General Meeting**

**November 8, 2004**

**Presentation to the Annual General Meeting**  
For the Fiscal Year 2003 - 2004

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# Welcome from the Chief Appeals Commissioner



The Appeals Commission for Alberta Workers' Compensation is a quasi-judicial body that is separate from and independent of the Workers' Compensation Board. Established in the Workers' Compensation Act in 1988, the Appeals Commission considers appeals from the decisions made by the internal review bodies of the Workers' Compensation Board.

This is the 2<sup>nd</sup> Annual General Meeting of the Appeals Commission. This annual general meeting, as required by legislation, is an opportunity for me to report on the performance of the Commission. My report is an excerpt of the Appeals Commission Annual Report from the Human Resources and Employment Ministry Annual Report 2003/2004. In addition to these excerpts I will also provide some additional operations information that may be of interest to you.

Also, as required by legislation, I will report the information relating to the Appeals Commission from the most recent annual report of the Auditor General of Alberta.

In the 2001-2003 Annual Report I reported regarding the significant changes and initiatives that occurred as a result of the government's review of the appeals system.

This annual report for 2003-2004 is the first report covering a full fiscal year since the transition. Although it is the 13<sup>th</sup> annual report of the Appeals Commission it is the first annual report within the framework of the government business planning and reporting structure.

# Excerpts from Human Resources and Employment Ministry Annual Report 2003/2004

For copies of full report contact:  
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Electronic versions of this document are available at  
[www.gov.ab.ca/hre/](http://www.gov.ab.ca/hre/) in the 'Publications' section.

The Appeals Commission is a quasi-judicial body that is the final level of appeal from decisions of the Workers' Compensation Board. It operates at arm's length from the Workers' Compensation Board and the government.

## Summary of Key Activities

While continuing the key activity of hearing initial appeals, many with multiple issues of appeal, the Appeals Commission continued to receive applications for reconsideration, requests for extension to the one-year time limit, investigations under the Office of the Ombudsman and inquiries from the Office of the Information and Privacy Commissioner.

# Integrated Results Analysis

- Vision, Mission and Core Business
- Integrated Results Analysis – financial and program information merged
- Results Analysis and Discussion

# Vision, Mission and Core Business

The Appeals Commission for Alberta Workers' Compensation (Appeals Commission) is an administrative tribunal providing a final level of appeal for workers' compensation matters in the Province of Alberta.

## **VISION**

The leader in innovative appeal services

## **MISSION**

To provide a timely, fair and independent appeals process consistent with legislation, policy and the principles of natural justice.

## **VALUES**

### **Respect**

- We respect all persons, treating them with honesty and integrity.

### **Excellence**

- We are committed to excellence in service through quality and consistency.

### **Fairness**

- We achieve fairness through being impartial and unbiased.

### **Co-operation**

- We achieve co-operation through sincere, open communication and teamwork

## **STRATEGIC PRIORITIES**

The Appeals Commission has opportunities to improve understanding and openness of the appeal system through education and provision of information. The challenge is to provide a timely appeal service while maintaining an uncompromised fairness of process.

## **CORE BUSINESS**

The core business is providing appeals services for workers' compensation matters. The key activities are:

- Informing and educating workers and employers of the appeal process and the Appeals Commission rules and procedures.
- Identifying, gathering and sharing of information regarding appeal matters through a prehearing process.
- Examining, inquiring into, hearing and determining all matters arising under the *Workers' Compensation Act* and Regulations on appeals of decisions of the Workers' Compensation Board.
- Communicating the interpretation and application of legislation and Workers' Compensation Board policy through publication of decisions.

## **GOALS**

**Goal 1:** To provide a timely appeal service.

**Goal 2:** To provide fair decisions consistent with legislation and policy

**Goal 3:** To provide accessible and transparent appeal services based on our values of respect, excellence, fairness and co-operation

# Integrated Results Analysis for Core Business

## Goal 1: To provide a timely appeal service

### DESIRED RESULTS

1.1 Improved appeal process and timelines as per set standards

PERFORMANCE MEASURES	Target	Results	Variance
1.1 Average number of days from appeal to decision issued	134	202	(68)
1.2 Average number of days from hearing to decision issued	33	28	5
1.3 Percent of initial appeals processed within 125 days	57%	23%	(34%)
1.4 Percent of initial decisions issued within 30 days of hearing	75%	72%	(3%)

### KEY STRATEGIES

**Desired Result 1.1 – Improved appeal process and timelines as per set standards**

- Reduce the length of time to process an appeal

## Goal 2: To provide fair decisions consistent with legislation and policy

### DESIRED RESULTS

2.1 Increased number of results upheld on review

PERFORMANCE MEASURES	Target	Results	Variance
2.1 Number of decisions sent back by the Courts for the Appeals Commission to rehear	0	0	0
2.2 Number of decisions sent back by the Ombudsman to the Appeals Commission with recommendations to correct procedural deficiencies or rehear	3	3	0
2.3 Number of times the Appeals Commission reconsiders its own decision (“own motion”)	4	7	(3)
2.4 Number of decisions clarified by the Appeals Commission at the request of a party	8	5	3

### KEY STRATEGIES

**Desired Result 2.1 – Increased number of results upheld on review**

- Increase number of Appeals Commission decisions upheld on review

**Goal 3: To provide accessible and transparent appeal services based on our values of respect, excellence, fairness and co-operation**

**DESIRED RESULTS**

3.1 Stakeholders are satisfied with the appeal services and processes

**PERFORMANCE MEASURES**

**Target Results**

3.1	Satisfaction with accessibility of information and services	Under development
3.2	Satisfaction with transparency of procedures and policies used	Under development
3.3	Satisfaction with expertise, skills, knowledge and competencies	Under development
3.4	Satisfaction with courtesy and respect perceived when dealing with the Commission	Under development

**KEY STRATEGIES**

**Desired Result 3.1** – *Stakeholders are satisfied with the appeal services and processes*

- Continue to develop the expertise and knowledge base of the Appeals Commission
- Develop and implement services and processes that satisfy the needs of stakeholders

**FINANCIAL RESOURCES**

**Financial Resources** (Total Gross Expenditures, \$000's)

Initial Planned Spending	6,350
Amended Planned Spending	6,713
Actual Spending	6,097
Variance	616

**ENVIRONMENTAL SCANNING**

- During the 2003/2004 fiscal period the Appeals Commission received an unexpected influx of appeals as a result of an increased flow from the WCB review body. This resulted in a higher than projected outstanding appeal load and had an impact on the length of time to process an appeal.
- Legislative changes to the appeals system and integration into the government system continue to have an impact on the resources and timelines.
- Legislative changes to the *Workers' Compensation Act* removing section 8(7), and providing for direct appeals to the Courts, has resulted in more court applications and more reconsiderations on "own motion" replacing Board of Directors' motions under section 8(7). Section 8(7) allowed the WCB Board of Directors to direct the Appeals Commission to rehear matters where the Board of Directors considered that the Appeals Commission had not properly applied policy or legislation.

## **INTEGRATED RESULTS ANALYSIS**

- The Appeals Commission moved to a government entity on September 1, 2002. As a result of the transition to government, staffing initiatives were delayed. As a result of not operating with a full staff compliment there was a budget variance of \$616,000.
- The unexpected increase in initial appeals, together with less than full staffing, resulted in a longer than average number of days from appeal to decision issued. This resulted in a higher than projected outstanding appeal load and had an impact on the length of time to process an appeal.

# Detailed Program Results Analysis and Discussion

Goals, strategies, measures and desired results

## Goal 1:

To provide a timely appeal service

### Desired Result 1.1

Improved appeal process and timelines as per set standards

**STRATEGY 1.1.1**  
Reduce the length of time to process an appeal

The Appeals Commission will maintain a full complement of hearing chairs, commissioners and staff. Continued development of the pre-hearing unit will increase the efficiency with which appeals are prepared for hearing.

**PERFORMANCE MEASURE 1.1**  
Average number of days from appeal to decision issued

	2003/04	Target
Average number of days	202	134

**Source/Methodology:** The Appeals Commission Appeals Management System (AMS) tracks all data relating to each appeal. AMS generates a report that calculates the average number of days from the date an appeal is first entered into the system until the panel issues the final decision.

**PERFORMANCE MEASURE 1.2**  
Average number of days from hearing to decision issued

	2003/04	Target
Average number of days	28	33

**Source/Methodology:** The Appeals Commission Appeals Management System (AMS) tracks all data relating to each appeal. AMS generates a report that calculates the average number of days from the date of hearing until the panel issues the final decision.

**PERFORMANCE MEASURE 1.3**  
Percent of initial appeals processed within 125 days

	2003/04	Target
Percent of initial appeals	23%	57%

**Source/Methodology:** The Appeals Commission Appeals Management System (AMS) tracks all data relating to each appeal. AMS generates a report that calculates the average number of days since an appeal is first entered into the system until the appeal is concluded. Those appeals that are processed within 125 days or less are calculated as a percentage of the total number of appeals concluded within the reporting period.

**PERFORMANCE  
MEASURE 1.4**

Percent of initial decisions  
issued within 30 days of  
hearing

	<b>2003/04</b>	<b>Target</b>
Percent of initial decisions	72%	75%

**Source/Methodology:** The Appeals Commission Appeals Management System (AMS) tracks all data relating to each appeal. AMS generates a report that calculates the average number of days from the date of the hearing until the appeal is concluded. Those appeals that are processed within 30 days or less of the hearing are calculated as a percentage of the total number of appeals concluded within the reporting period.

**ANALYSIS OF PERFORMANCE MEASURE**

During the fiscal year 2003/04 the Appeals Commission's average timeline from appeal to decision issued was 202 days and from hearing to decision signed was 28 days.

The Appeals Commission bases projections for normal workloads on five-year historical data. The target of 134 days from appeal to decision issued proved inaccurate, as in addition to the normal workload, there was an unexpected influx of appeals. This resulted in a higher number of appeals outstanding and will continue to impact the projected timelines.

As a result of transition to government, staffing initiatives were delayed. Based on a normal projected workload, recruitment initiatives commenced towards full staffing.

The Appeals Commission is now fully resourced and, given a constant appeal workload at projected levels, this should have a significant positive impact on reducing the length of time it takes to process an appeal.

## Goal 2:

### To provide fair decisions consistent with legislation and policy

#### Desired Result 2.1

Increased number of Appeals Commission decisions upheld on review

**STRATEGY 2.1.1**  
Increase number of Appeals Commission decisions upheld on review

The Appeals Commission will continue to provide and deliver comprehensive training for commissioners and hearing chairs. As well, a comprehensive orientation program for new commissioners will continue to be developed.

**PERFORMANCE MEASURE 2.1**  
Number of decisions sent back by the Courts for the Appeals Commission to rehear

	2003/04	Target
Number of decisions	0	0

**Source/Methodology:** The Appeals Commission Appeals Management System (AMS) tracks all data relating to each appeal. AMS generates a report that calculates the number of decisions sent back by the Courts. In 2002 the *Workers' Compensation Act* was amended to include a statutory right of appeal (s.13.4) on questions of law or jurisdiction.

The target for 2004/05 has been adjusted as a result of the replacement of section 8(7) with the right to appeal to the Courts, which was expected to result in increased Court activity.

**PERFORMANCE MEASURE 2.2**  
Number of decisions sent back by the Ombudsman to the Appeals Commission with recommendations to correct procedural deficiencies or rehear

	2003/04	Target
Number of decisions	3	3

**Source/Methodology:** The Appeals Commission Appeals Management System (AMS) tracks all data relating to each appeal. AMS generates a report that calculates the number of decisions sent back by the Ombudsman to the Appeals Commission with recommendations to correct procedural deficiencies or to rehear. Individuals who feel they have been treated unfairly by the Appeals Commission can, by written complaint, request the Ombudsman to investigate actions, decisions, practices and procedures.

**PERFORMANCE  
MEASURE 2.3**

Number of times the Appeals Commission reconsiders its own decision (“own motion”)

	2003/04	Target
Number of times	7	4

**Source/Methodology:** The Appeals Commission Appeals Management System (AMS) tracks all data relating to each appeal. AMS generates a report that calculates the number of times the Appeals Commission reconsiders its own decision. Under section 13.1(7) of the *Workers’ Compensation Act* the Appeals Commission, at its discretion on the application of a person with a direct interest, or on its own motion, may reconsider any matter that it has dealt with.

**PERFORMANCE  
MEASURE 2.4**

Number of decisions clarified by the Appeals Commission at the request of a party

	2003/04	Target
Number of decisions	5	8

**Source/Methodology:** The Appeals Commission Appeals Management System (AMS) tracks all data relating to each appeal. AMS generates a report that calculates the number of decisions clarified by the Appeals Commission at the request of a party. Under section 13.2(7) of the *Workers’ Compensation Act*, at the request of an affected person or the Board, the Appeals Commission may clarify any direction given in respect of a decision.

**ANALYSIS OF PERFORMANCE MEASURE**

Legislative changes to the *Workers’ Compensation Act*, removing section 8(7) and providing for direct appeals to the Courts, has resulted in more court applications and more reconsiderations on “own motion” replacing Board of Directors’ motions under section 8(7).

## Goal 3:

### To provide accessible and transparent appeal services based on our values of respect, excellence, fairness and co-operation

	<b>Desired Result 3.1</b> Stakeholders are satisfied with the appeal services and processes
<b>STRATEGY 3.1.1</b> Continue to develop the expertise and knowledge base of the Commission	The Appeals Commission will continue to deliver comprehensive training to commissioners, hearing chairs and staff.
<b>STRATEGY 3.1.2</b> Develop and implement services and processes that satisfy the needs of stakeholders	The Appeals Commission will continue to publish decisions on the Appeals Commission Web site and will explore tools and methods to inform and educate our stakeholders. The Appeals Commission will also continue to review the <i>Rules of Procedure</i> .
<b>PERFORMANCE MEASURE 3.1</b> Satisfaction with accessibility of information and services	The Appeals Commission is currently in the process of establishing a survey instrument to measure stakeholder satisfaction with appeal services and processes.
<b>PERFORMANCE MEASURE 3.2</b> Satisfaction with transparency of procedures and policies used	<b>ANALYSIS OF PERFORMANCE MEASURE</b> Not applicable for 2003/04 The Appeals Commission is currently in the process of establishing a survey instrument to measure stakeholder satisfaction with appeal services and processes.
<b>PERFORMANCE MEASURE 3.3</b> Satisfaction with expertise, skills, knowledge and competencies	<b>ANALYSIS OF PERFORMANCE MEASURE</b> Not applicable for 2003/04 The Appeals Commission is currently in the process of establishing a survey instrument to measure stakeholder satisfaction with appeal services and processes.
<b>PERFORMANCE MEASURE 3.4</b> Satisfaction with courtesy and respect perceived when dealing with the Commission	<b>ANALYSIS OF PERFORMANCE MEASURE</b> Not applicable for 2003/04 The Appeals Commission is currently in the process of establishing a survey instrument to measure stakeholder satisfaction with appeal services and processes.
	<b>ANALYSIS OF PERFORMANCE MEASURE</b> Not applicable for 2003/04

## Future Challenges

The Appeals Commission has a continuing objective to reduce the time to process an appeal. The challenge is to achieve this within a system that has ever-increasing complexity of issues and processes and while maintaining an uncompromised fairness of process and adherence to the principles of administrative justice.

An additional challenge is to provide priority to initial appeals while addressing the continuing workload in such areas as reconsideration requests, one-year appeal deadline extensions, appeals to the Court, Freedom of Information requests, Ombudsman inquiries, etc.

Balancing the demands of all appeal-related activities with the demands to continue enhancing the competencies of the Commission through ongoing training activities and recruitment initiatives presents a continuing challenge.

Finding methods and resources to provide information to stakeholders to allow them to more effectively access and use the appeal system will be a further continuing challenge.

# Financial Statements

## MINISTRY OF HUMAN RESOURCES AND EMPLOYMENT SCHEDULE TO FINANCIAL STATEMENTS

Schedule 5  
(continued)

### COMPARISON OF EXPENSES - DIRECTLY INCURRED AND CAPITAL INVESTMENTS BY ELEMENT TO AUTHORIZED BUDGET

For the year ended March 31, 2004

(\$ thousands)

	2003-2004 Estimate	Authorized Supplementary (a)	2003-2004 Authorized Budget	2003-2004 Actual (b)	Unexpended (Over Expended)
Program 4 - Workplace Investments					
4.1.1 Program Support	1,371	-	1,371	1,652	(281)
4.2.1 Mediation	752	-	752	690	62
4.2.2 Labour Relations Policy and Facilitation	903	-	903	661	242
4.2.3 Professions and Occupations	642	-	642	543	99
4.3.1 Legislation, Policy and Technical Support	4,233	-	4,233	4,800	(567)
4.3.2 Partnerships	915	-	915	1,076	(161)
4.3.3 Regional Services	8,199	-	8,199	8,773	(574)
4.4.1 Legislation, Policy and Technical Support	625	-	625	587	38
4.4.2 Regional Services	4,474	-	4,474	4,528	(54)
	<u>22,114</u>	<u>-</u>	<u>22,114</u>	<u>23,310</u>	<u>(1,196)</u>
Program 5 - Labour Relations and Adjudication					
5.1.1 Labour Relations Board	2,728	-	2,728	2,933	(205)
	<u>2,728</u>	<u>-</u>	<u>2,728</u>	<u>2,933</u>	<u>(205)</u>
Program 6 - Personnel Administration Office					
6.1.1 Public Service Commissioner's Office	510	-	510	452	58
6.1.2 Corporate Human Resource Services	5,568	-	5,568	5,869	(301)
6.1.3 Information Management Services	1,472	-	1,472	1,366	106
6.2.1 Research and Development	750	-	750	726	24
	<u>8,300</u>	<u>-</u>	<u>8,300</u>	<u>8,413</u>	<u>(113)</u>
Program 7 - Workers' Compensation Appeals					
7.0.1 Appeals Commission for Alberta Workers' Compensation	6,350	-	6,350	6,097	253
	<u>6,350</u>	<u>-</u>	<u>6,350</u>	<u>6,097</u>	<u>253</u>
<b>Total Voted Expenses and Capital Investments</b>	<u>\$ 1,072,188</u>	<u>\$ 60,680</u>	<u>\$ 1,132,868</u>	<u>\$ 1,129,070</u>	<u>\$ 3,798</u>
Program Operating Expense	1,068,690	61,000	1,129,690	1,126,476	3,214
Program Capital Investment	3,498	(320)	3,178	2,594	584
	<u>\$ 1,072,188</u>	<u>\$ 60,680</u>	<u>\$ 1,132,868</u>	<u>\$ 1,129,070</u>	<u>\$ 3,798</u>
<b>Statutory Expenses</b>					
Valuation Adjustments	2,659	-	2,659	4,448	(1,789)
<b>Total Statutory Expenses</b>	<u>\$ 2,659</u>	<u>-</u>	<u>\$ 2,659</u>	<u>\$ 4,448</u>	<u>(1,789)</u>

(a) Supplementary Estimates were approved as follows: \$32,000 on December 4, 2003 and \$28,680 on March 11, 2004.

(b) Includes achievement bonus of \$1,570.

**MINISTRY OF HUMAN RESOURCES AND EMPLOYMENT  
SALARY AND BENEFITS DISCLOSURE**

Schedule 6 (d)

**WORKERS' COMPENSATION APPEALS**

For the year ended March 31, 2004

	2004			2003	
	Base Salary <sup>(1)</sup>	Other Cash Benefits <sup>(2)</sup>	Other Non-cash Benefits <sup>(3)</sup>	Total	Total <sup>(7)</sup>
Senior Officials					
Chief Appeals Commissioner <sup>(4)</sup>	\$ 136,140	\$ 19,936	\$ 31,720	\$ 187,796	\$ 104,051
Vice Chair <sup>(8)</sup>	63,560	7,225	12,152	82,937	70,090
Full Time Commissioners <sup>(5)</sup>	1,440,812	93,686	119,697	1,654,195	859,802
Temporary Appeals Commissioners <sup>(6)</sup>	629,323	-	-	629,323	293,568

Prepared in accordance with Treasury Board Directive 03/2004.

- (1) Base salary includes regular base pay.
- (2) Other cash benefits include bonuses, vacation payouts, overtime and lump sum payments.
- (3) Other non-cash benefits include government's share of all employee benefits and contributions or payments made on behalf of employees including pension, health care, dental coverage, group life insurance, short and long-term disability plans, professional memberships and tuition fees.
- (4) Automobile provided, no dollar amount included in benefits and allowances figures.
- (5) Commissioners consist of sixteen full time individuals.
- (6) Salary is the honoraria paid from April 1, 2003 to March 31, 2004 for seventeen part time Commissioners.
- (7) Effective September 1, 2002, the Appeals Commission for Alberta Workers' Compensation was transferred to Alberta Human Resources and Employment from the Workers' Compensation Board. Accordingly, the salaries, benefits and allowances for fiscal 2003 are for a period of seven months.
- (8) Position occupied for 8 months.

# Auditor General's Report

The 2003-2004 Annual Report of the Auditor General of Alberta did not include any exceptions or findings relating to the Appeals Commission.

A copy of the Annual Report of the Auditor General of Alberta 2003-2004 is available online at <http://www.oag.ab.ca/>.

# Additional Operating Information

## Appeals

Appeals Received	April 1/02 to March 31/03	April 1/03 to March 31/04	Variance
Total number of appeals received	1047	1344	+28%

Appeal Types		
Initial claims appeals	98.4%	98.7%
Initial assessment appeals	1.6%	1.3%

Appeals Finalized			
Total number of decisions issued	787	855	+9%
Other (withdrawn, dismissed, abandoned)	127	151	+19%
<b>Total number of appeals finalized</b>	<b>914</b>	<b>1006</b>	<b>+10%</b>

Appeal Issues Received			
Initial appeals*	1991	2583	+30%

Appeal Issues Finalized			
Upheld initial	689	904	
Overtaken initial	557	447	
Partially supported initial	63	63	
Other resolution (referred back to WCB)	98	176	
Other conclusions (withdrawn, dismissed, abandoned)	293	379	
<b>Total appeal issues finalized</b>	<b>1700</b>	<b>1969</b>	<b>+16%</b>

\*Note: Discrepancy between figures reported in Annual Report 2001-2003 is a result of issues that were added on finalization i.e. after reporting period of March 31/03.

<b>Most Common Issues of Appeal</b>		
Acceptability of claim	7%	8%
Additional entitlement	14%	16%
Assessment	1%	1%
Change in permanent disability entitlement	2%	2%
Cost relief	3%	2%
Earnings loss supplement entitlement	2%	1%
Increased responsibility	10%	9%
Permanent disability entitlement	2%	1%
Temporary partial disability	6%	6%
Temporary total disability entitlement	17%	17%
Other	36%	37%

## Initial Appeal Hearing Activities

<b>Total Hearings Conducted</b>	<b>April 1/02 to March 31/03</b>	<b>April 1/03 to March 31/04</b>	<b>Variance</b>
In-Person	586	697	+19%
Documentary	82	92	+12%
Teleconference	80	83	+4%
<b>Total hearings conducted on initial appeals</b>	<b>748</b>	<b>872</b>	<b>+17%</b>

<b>Representation at Hearing</b>		
Represented	85%	87%
Unrepresented	15%	13%

## Reconsiderations

Reconsideration Requests	April 1/02 to March 31/03	April 1/03 to March 31/04	Variance
Reconsideration applications received	105	110	+5%

Types of Reconsideration Requests		
Reconsideration claims related	99%	93%
Reconsideration assessment related	1%	7%

Outcome of Reconsideration Applications - Decisions Issued			
Reconsideration requests granted	9	8	
Reconsideration requests denied	51	62	
Other conclusions (withdrawn, dismissed, abandoned)	15	18	
<b>Total reconsideration applications finalized</b>	<b>75</b>	<b>88</b>	<b>+17%</b>

Reconsideration on Own Motion		
Granted	1	7
Denied	0	0
<b>Total reconsiderations on own motion</b>	<b>1</b>	<b>7</b>

Outcome of Appeals Being Reheard (Issues in decision)		
Percentage of decisions where we reached the same decision as the original Appeals Commission decision	37%	55%
Percentage of decisions where we reached a different decision than the original Appeals Commission decision	16%	20%
Percentage of decisions where we reached a modified or alternate resolution to the original Appeals Commission decision	47%	25%
<b>Total issues</b>	<b>19</b>	<b>20</b>
<b>Total applications</b>	<b>12</b>	<b>12</b>