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2020-2021  
**ANNUAL  
REPORT**

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**APPEALS**  
**COMMISSION**  
FOR ALBERTA WORKERS' COMPENSATION

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## Message from the Minister



Hard-working Albertans go to their jobs every day expecting they will come home safely at the end of their shifts. Thankfully, most of the time they do come home safely; however, sometimes workers get injured on the job or suffer a work-related illness and need assistance. When this happens, they and their employers rely on the workers' compensation system to support them, help them recover and return to work.

The past year has been difficult as our province navigated COVID-19, the drop in energy prices and the global economic recession. Throughout this time, the Appeals Commission continued its important work to help employers and workers deal with disputes related to compensation claims and ensure they were treated fairly. The 2020-2021 annual report demonstrates that the Commission continued to serve the needs of employers and injured workers at a high level.

Going forward, the Commission will take on new responsibilities of providing appeal advisory services to employers and workers and administrative support to the Medical Panels Commissioner. These new responsibilities are part of the changes Alberta's government made to the workers' compensation system in fall 2020 to make it more sustainable and efficient. I am confident the Appeals Commission will fulfil these new responsibilities with the same level of excellence for which the organization is known.

The Appeals Commission is a key part of a fair and sustainable workers' compensation system that helps our workplaces remain viable, and supports job growth and Alberta's economic recovery.

A handwritten signature in blue ink, appearing to read 'Jason Copping', written in a cursive style.

**Honourable Jason Copping**  
*Minister of Labour and Immigration*

## Message from the Chief Appeals Commissioner and CEO

It is my pleasure to present the 2020-2021 annual report for the Appeals Commission for Alberta Workers' Compensation. This fiscal year brought unprecedented challenges, and I am immensely proud of the many ways in which the Commission adapted. By never losing sight of our vision of a fair, client-focused appeal experience, and focusing on our values of respect, service, integrity and accountability, the Commission was able to maintain its standards of excellence throughout the course of the fiscal year.

Our fiscal year began in the first few weeks of the COVID-19 pandemic, and our priorities throughout have been the health and safety of our clients and our team, and the maintenance of our services. This resulted in the acceleration of certain projects that were already underway, as well as the development of new initiatives. The 2020-2021 year saw the introduction of items that had long been on our "wish list," including video conference hearing options, the launch of web-based form submissions, and enhanced opportunities to communicate and share documents electronically. Thanks to these advancements, as well as the efforts of our dedicated team, service continued uninterrupted and we were able to conduct more hearings in 2020-2021 than in the prior fiscal year.

Throughout the fiscal year, we continued to pursue initiatives that demonstrate our commitment to our values, access to justice and a respectful workplace. A transparent, public-facing service complaint process was created and shared on our website. Team members had the opportunity to participate in an "Inclusion at Work" e-course and the Commission established its first Respect, Equality, Diversity and Inclusion (REDI) Committee. Significantly, we were named one of Alberta's Top 70 Employers and achieved an employee engagement score of 85%, 14 points above benchmark.

In spite of COVID-19, and in parallel with our many organizational enhancement and operational projects, we continued to meet or exceed our performance targets throughout the year. Once again, we met our goal of favourable decision review by the courts and other reviewing bodies. Our decision timelines were consistently below our target of 30 days. Although we incurred some additional costs in the transition to remote work and the installation of office safety features, the absence of travel and training opportunities as a result of the pandemic saw us again under budget.

The second half of the fiscal year brought the announcement of, and preparation for, Bill 47, which on April 1, 2021, amended the *Workers' Compensation Act* and moved the Medical Panels Program and advocacy function of the Fair Practices Office (now known as the Advisor Office) to the Appeals Commission. Early on in the process, we articulated three guiding principles:

- Commitment to independence: putting the structures in place to ensure that the Appeals Commission, the Advisor Office and the Medical Panels Program can provide their mandated services to the standards of excellence expected, in an unbiased, impartial manner.
- Commitment to communication: sharing information openly and transparently, and being open to feedback and questions.
- Commitment to efficiency: wherever possible and appropriate, reducing red tape and finding efficiencies in how services are provided within the system.

In the months leading up to April 1, we focused on understanding the legislative amendments and ensuring the structure and governance framework was in place to welcome our two new programs. While reporting on the Commission's new programs does not fall within the scope of this Annual Report, I'm happy to share that the transition went smoothly, with no interruptions in client service. Future Annual Reports will include updates on both the Medical Panels Program and Advisor Office operations.

This report would not be complete without acknowledging and thanking our innovative, resilient and resourceful team. We were able to continue serving our clients this year because of their willingness to brainstorm, pivot and adapt. Throughout all the challenges that 2020-2021 brought, their collective pursuit of our vision and mission, and demonstration of our values, allowed the Commission to continue its tradition of excellence in adjudication.

Sincerely,



**Dale Wispinski**

*Chief Appeals Commissioner and CEO*

## Introduction to the Appeals Commission

This document reports on the performance of the Appeals Commission from April 1, 2020 to March 31, 2021 inclusive.

### Who We Are

The Appeals Commission for Alberta Workers' Compensation is a quasi-judicial tribunal operating under the authority of the *Workers' Compensation Act*. It is the final level of appeal for decisions made by the Workers' Compensation Board (WCB). The Appeals Commission is committed to a fair, client-focused appeal experience, while demonstrating our values of respect, service, integrity and accountability. Our mission is to understand client needs, guide them through the appeal process, offer user-friendly resources, create a safe and respectful place to be heard, and provide clear, timely, independent and unbiased decisions.

The Appeals Commission is independent from the WCB and arm's length from the Government of Alberta. The Minister of Labour and Immigration is responsible for the Appeals Commission. This relationship is guided by the Appeals Commission's Mandate and Roles Document, which is housed with the Agency Governance Secretariat.

On April 1, 2021, the Appeals Commission became responsible for the operation and administration of the Advisor Office and the Medical Panels Program. Our 2021-2022 Annual Report will contain reporting on both new programs.

### Our People

Adjudicators, including the Chief Appeals Commissioner, are recruited through public competition. The competition process is based on a competency matrix, which ensures that our adjudicators meet a high standard of clear and unbiased decision making. Adjudicators are appointed by the Lieutenant Governor in Council.

Presently, the Appeals Commission has 52 adjudicators consisting of 20 full-time Hearing Chairs and 32 part-time Commissioners. The Chief Appeals Commissioner also acts as the CEO of the Commission, directing its operations with the support of an executive team comprised of two Vice-Chairs, General Counsel, and an Executive Director. In this fiscal year, the Appeals Commission achieved an important step in its succession planning with the appointment of three new Hearing Chairs and 19 new Commissioners. After a very successful modified and entirely remote orientation program, these adjudicators began serving on hearing panels and writing decisions.

## Appeal Process

Appeals are heard by panels made up of three adjudicators who issue a decision that is binding on, and must be implemented by, the WCB within 30 days. This fiscal year there were several significant enhancements to the appeal process that reduced red tape, as described below.

Decisions of the Appeals Commission are published on the Canadian Legal Information Institute website (<https://www.canlii.org/en/ab/abwcac/>).

## Client-Focused Services

In the 2020-2021 fiscal year, the Appeals Commission successfully navigated the challenges that arose because of COVID-19 and continued to enhance its operations, guided by a commitment to fair, client-focused services.

### COVID-19 Response

To ensure the safety of our clients and our team, in spring 2020 the Commission closed its offices to the public and moved its services online. We have remained continuously in operation during the pandemic by adapting our service model to include new processes, policies and procedures, and by making refinements in response to the changing environment. We are proud of the advancements we have made in the past year, and grateful to our stakeholders for their flexibility and patience.

### Electronic Communication

Except for a brief period in the autumn when we were able to hold a few in-person hearings in a specially designed COVID-responsive hearing room, the Appeals Commission conducted all of its 2020-2021 operations remotely. Operational enhancements, including email communication with clients and the use of a secure file transfer protocol, facilitated our ability to provide our services remotely.

Perhaps our most significant operational enhancement this fiscal year was the introduction of online form submission. As of March 1, 2021, parties can also submit the following forms online through the Appeals Commission's website:

- Notice of Appeal
- Notice of Representation
- Application to Reconsider a Decision
- Application for Interim Relief
- Application for Extension of Time
- Request for Transcript

We were pleased to offer this new option for submitting forms to the Appeals Commission, and happy to share that many of our clients now use this option. We thank our stakeholders for participating in the testing process for these forms.

More than half of our 2020-2021 hearings took place by teleconference, and video conference hearings are becoming an increasingly popular option. We now offer consistent access to video conference hearings, and have refined our procedures to make the process easier to navigate. We also completed new video conference and teleconference guidance for parties. With this increased use of technology, we put in place several new processes to protect client privacy.

Many parties have reported that they find online form submission and other electronic communication more efficient. This aligns with the Appeals Commission's commitment to cut red tape and enhance access to our services. Mindful that not everyone has a computer, however, when we moved our operations online we also maintained our telephone services and created new protocols so we could continue to accept paper documents. We will continue to offer these options to ensure that all of our clients have the best possible access to justice.

## Respect, Equality, Diversity and Inclusion

This fiscal year we built on our solid foundation of Respectful Workplace training with the creation of a new Respect, Equality, Diversity and Inclusion (REDI) committee that has a broad mandate to ensure the Commission's leadership in these areas. The entire Commission completed Inclusion at Work training in 2020-2021, and more training on unconscious bias and cultural awareness will be offered. Our policies and procedures will also be updated as this project develops.

In the coming year, we will assess the Commission in relation to national best practices for tribunal excellence, access to justice, and client service against our 2019 baseline scores. Service improvements since then will be noted and new initiatives added for the coming year.

## Service Standards

The Appeals Commission is proud of the quality of service we provide to our clients and stakeholders. In March 2021, we published updated service standards which link directly to our vision, mission and values. These service standards include a fair, consistent and transparent complaint process, also published in March 2021. It is important to us that we follow-up with anyone who has concerns about their experience with the Appeals Commission.

A new client exit survey is being developed that will allow parties to quickly and easily provide feedback immediately after their hearing. Questions will be general in nature and tied to our mission statement, and responses will be anonymous. Information from this survey will be used to inform our practices and process enhancements.

## Bill 47

Bill 47, the Ensuring Safety and Cutting Red Tape Act, 2020, was passed on December 9, 2020. This legislation included amendments to the Alberta Workers' Compensation Act that expanded the mandate of the Appeals Commission to include appeals advisory services and medical panels as independent programs, as of April 1, 2021.

In response to its expanded mandate, the Appeals Commission created a new governance and independence framework, realigned its organizational structure to include these new programs, and established an arm's length internal service unit to support the tribunal and its two new programs.

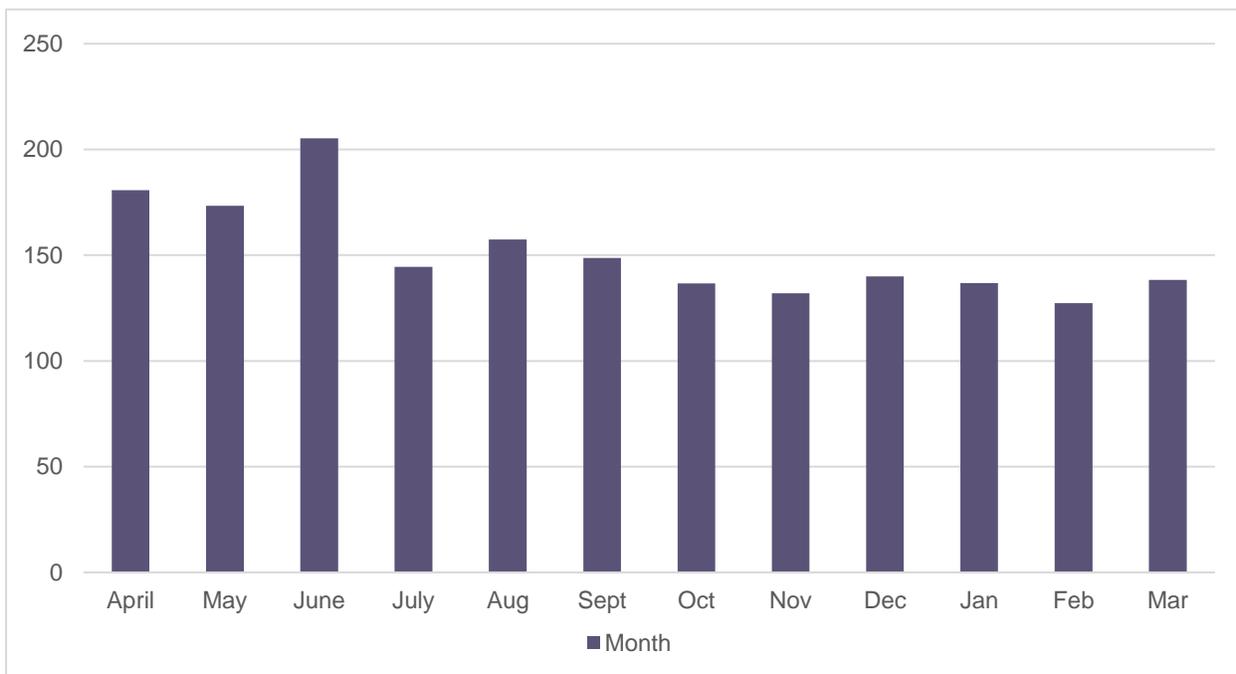
## 2020-2021 Appeals

The Appeals Commission provides prompt and high quality service, processing appeals and scheduling hearing dates for parties as quickly as possible. The appeal cycle includes the combined average number of days from the date the appeal is successfully filed to the first hearing date offered, and the average number of days from the hearing to the decision issue date. The Appeals Commission continuously reviews appeal-related processes, procedures, and technology to ensure that they are as effective and efficient as possible.

With respect to its pre-hearing processes, the Appeals Commission tracks the number of days from when an appeal has been successfully filed to the first available hearing date in two ways: real time (as at the date the hearing is booked) and historic (as at the date the decision is issued). In doing so, the Appeals Commission is able to identify and resolve scheduling issues or bottlenecks in a timely manner.

### **Average number of days from appeal successfully filed to first available hearing date (real-time).**

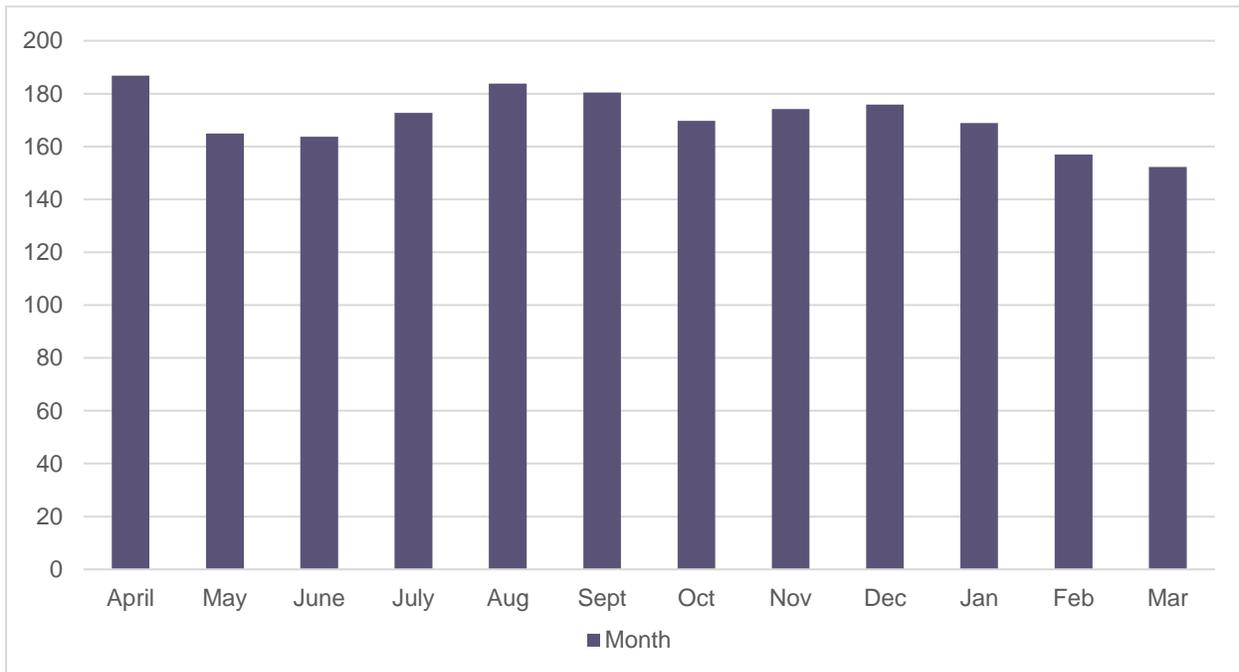
This data is recorded at the time the hearing is booked and provides a real-time reflection of the number of days it will take to get to a hearing for parties who have successfully filed an appeal. For hearings booked in the 2020-2021 fiscal year, the average number of days from the date the appeal was successfully filed to the first available hearing date was 153. Please note that additional delays which are beyond the control of the Commission, such as adjournments requested by parties to an appeal, are not included here.



**Average number of days from appeal successfully filed to first available hearing date (historic).**

For decisions published in 2020-2021, our average number of days from the date the appeal was successfully filed to first available hearing date held steady at 170 days. The data still shows a temporary increase in the appeal successfully filed date to first available hearing date timeline due to our 2019 project to revise the Appeals Commission’s booking and scheduling process.

By the end of the fiscal year, they were within range of our target of 150 days. Please note that additional delays, which are beyond the control of the Commission, are not included here.



**Average number of days from the hearing to the decision issue date.**

Our adjudicators always strive for decisions to be issued within 30 days of the hearing.

Target	2018-2019	2019-2020	2020-2021
30 days	44 days	46 days	28 days

In 2020-2021, we also began reporting the percentage of decisions issued within a given time period. We accessed historical data to review our performance in this regard over three years.

<b>Decisions Issued</b>	<b>2018-2019</b>	<b>2019-2020</b>	<b>2020-2021</b>
0-30 days	53.93%	54.32%	67.74%
31-60 days	23.22%	21.73%	24.42%
61-90 days	11.42%	12.64%	6.68%
91+ days	11.42%	11.31%	1.15%

## Types of Hearings

The type of hearing is requested by a party and ultimately decided by the Appeals Commission. In March 2020, we shifted to delivering our services remotely and successfully transitioned to documentary or teleconference hearings only. We also began testing options for video conference hearings and considering options for safe and appropriately distanced in-person hearings. In 2020-2021, we conducted 287 hearings by teleconference and video conference, and seven in a modified, safe hearing room in our Edmonton office. We also held 156 documentary hearings. In total, we held more hearings in the 2020-2021 fiscal year than in the 2019-2020 fiscal year.

## Representation before the Appeals Commission

The majority of appeal participants appear before the Appeals Commission with the assistance of a representative. In 2020-2021, 51% of appeal participants appeared with a representative from the Fair Practices Office, 40% appeared with other representatives (for example, lawyers or family members), and 9% represented themselves.

## Appeals Received

The number of appeals received is affected by a variety of factors, including changes in legislation and policy, the rate of resolution at the WCB, and the economic environment. The number of appeals received in the 2020-2021 fiscal year was higher than expected, given the COVID-19 pandemic and the closing of the Fair Practices Offices in late 2020. Online form submission and enhanced email communication expanded the opportunity to file an appeal this year.

<b>Application Type</b>	<b>2018-2019</b>	<b>2019-2020</b>	<b>2020-2021</b>
Time Extensions	18	11	4
Reconsiderations	45	50	48
Initial Appeals	552	507	467

## Appeals Concluded

We remain committed to an efficient appeals process, minimizing any potential backlog. The number of appeals concluded includes appeals dismissed and withdrawn.

Application Type	2018-2019	2019-2020	2020-2021
Time Extensions	22	16	4
Reconsiderations	33	62	83
Initial Appeals	619	529	494

## Finalized Issues of Appeal

Each appeal received may contain multiple issues, resulting in a variation in the number of issues concluded from year to year. In the 2020-2021 fiscal year, there were 402 issues confirmed, 124 issues varied, and 161 issues reversed. This is a similar pattern to previous years.

## Top Five Issues of Appeal

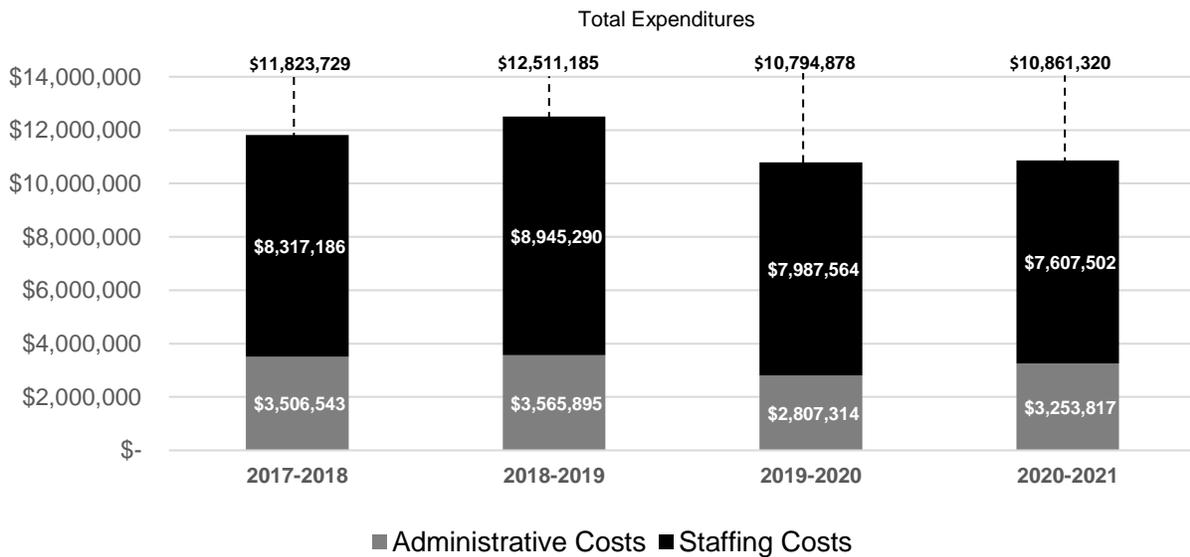
The most frequent issues of appeal have remained relatively stable over time.

Issues of Appeal	2019-2020	Issues of Appeal	2020-2021
1. Additional Entitlement	176	1. Acceptability of Claim	109
2. Acceptability of Claim	127	2. Additional Entitlement	53
3. Temporary Total Disability	95	3. Temporary Total Disability	42
4. ELP Calculation	91	4. ELP Calculation	34
5. Rehabilitation Services	67	5. Medical Aid Responsibility	33

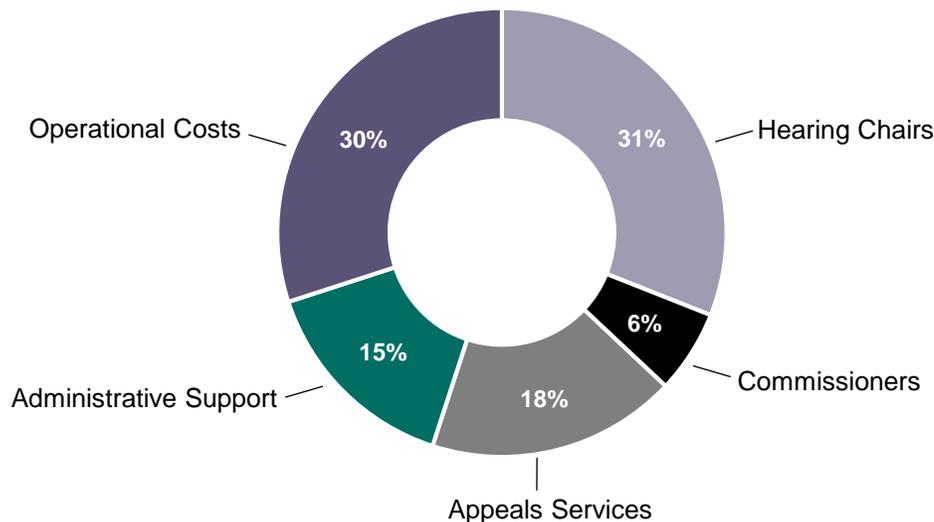
## Finance

Fiscal responsibility continues to be a priority for the Appeals Commission. In this fiscal year, we made every effort to shift in-house projects that might typically be outsourced, and to avoid all unnecessary expenditures. We also had lower costs due to less travel and training during the COVID-19 pandemic. As a result, our total expenditures in 2020-2021 amounted to 85% of our budget with no impact on service delivery.

### Cost Overview



### Expenditure Details



## Decision Review

Appeal participants who are dissatisfied with an appeal decision have several options for further review, including a reconsideration, judicial review/appeal application to the Court of Queen's Bench, or a complaint to the Alberta Ombudsman or the Fair Practices Office. In 2020-2021, the percentage of decisions unchallenged or upheld was 98%.

### Judicial Review

From April 1, 2020 to March 31, 2021, the Alberta courts issued three decisions with respect to judicial review/appeal of decisions of the Appeals Commission.

1. In an unreported case, the Court quashed the Commission's decision on the basis that the Appeals Commission failed to consider all available evidence. The file was returned to the Commission for a rehearing.
2. In an unreported case, the Court dismissed the application on the basis that the Appeals Commission's decision met the standard of review of reasonableness. The Court concluded that the Decision was intelligible, justifiable, and transparent.
3. In 2021 ABQB 232, the Court quashed the decision on the basis that the Appeals Commission's decision was unreasonable. The Court stated that the evidence that was relied upon did not support the findings made by the Commission. The matter was returned to the Commission for a rehearing. This decision is under appeal at the Court of Appeal.

### Court of Appeal

From April 1, 2020 to March 31, 2021, the Alberta Court of Appeal issued one decision with respect to an appeal of a Court of Queen's Bench decision that found an Appeals Commission decision reasonable.

1. In 2020 ABCA 48, the Court of Appeal upheld the Court of Queen's Bench decision on the basis that the lower court identified and applied the reasonableness standard of review correctly. The appeal was dismissed.

### The Ombudsman and the Fair Practices Office

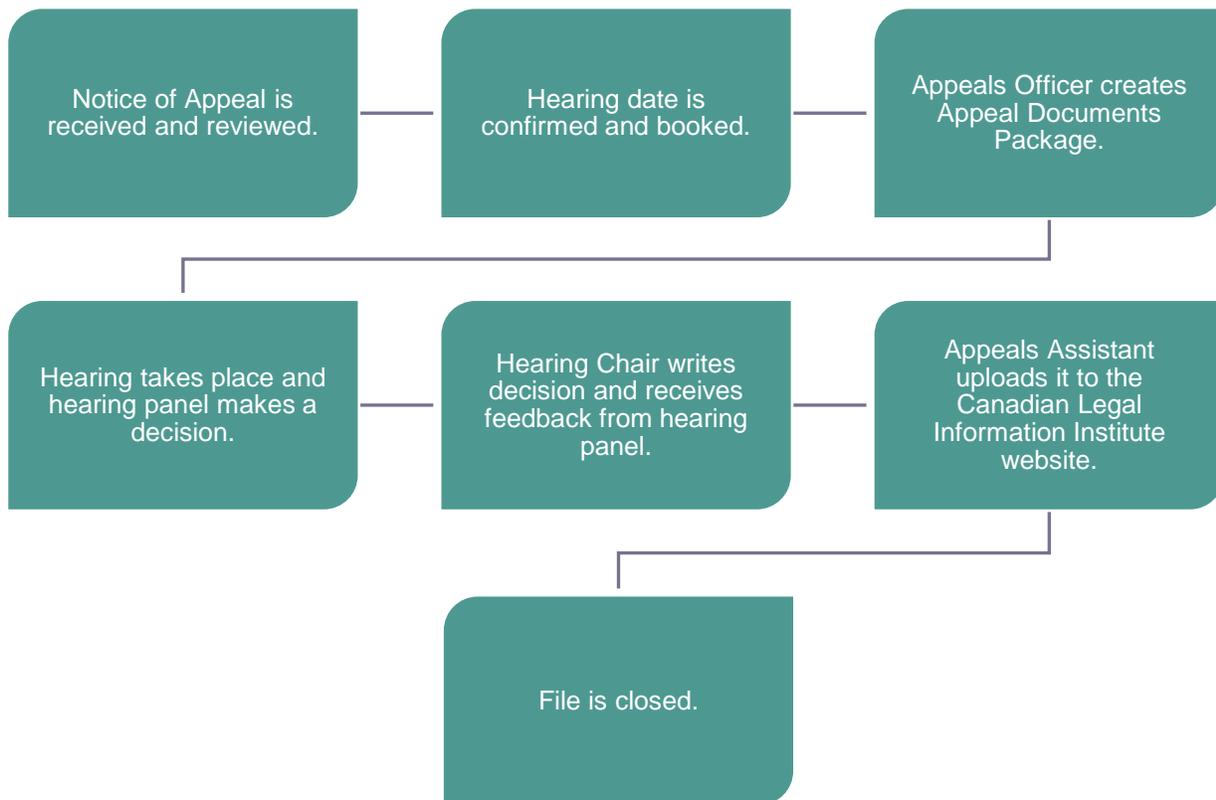
From April 1, 2020 to March 31, 2021, there were no formal complaints against the Appeals Commission to the Alberta Ombudsman. There were five informal requests for information or other resolutions. One informal request was supported by the Ombudsman and resulted in a rehearing. There were four complaints to the Fair Practices Office respecting the Appeals Commission for the April 1, 2020 to March 31, 2021 reporting period. No rehearings were recommended.

## Appeal Process

The Appeals Commission is committed to reaching high standards of service for our clients and stakeholders. We provide independent and fair appeals, which involve a seven-stage process that relies on the knowledge of our experienced team.

### The Life of an Appeal

The appeal process, from the first step of receiving an appeal from a client to the final step of closing an appeal file, includes several stages and incorporates the expertise of our appeal services team and hearing panels. Our process is designed to provide our clients with timely and fair appeals, and the information and support they need at each stage.



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## Position Profiles

During the appeal process, clients will interact with several members of our team. Our entire staff, including the following groups of individuals, are dedicated to providing a positive Appeals Commission experience.

### **Appeals Assistant**

Appeals Assistants provide administrative and clerical services for Appeals Officers, Vice-Chairs, and hearing panels. In the overall appeal process, Appeals Assistants have a variety of responsibilities, including assisting Appeals Officers with correspondence to clients and producing appeal-related documents. An Appeals Assistant is present during hearings and is responsible for setting up any special equipment, creating a digital audio recording, and providing administrative support.

### **Appeals Officer**

Appeals Officers oversee the case management and preparation of an appeal, and are responsible for a consistent appeal process. This includes preparing and managing the appeal file, educating stakeholders, and coordinating the pre-hearing process. As the central point of contact, the Appeals Officer communicates with the appellant, respondent, representatives, and any other parties involved in an appeal, as well as individuals within the WCB.

### **Hearing Panel**

Presiding over the hearing is a panel that consists of a Hearing Chair and two Commissioners. In preparation for the hearing, the panel reviews the appeal file, which includes focusing on relevant facts and evidence, preparing questions, and seeking legal guidance, if required. After a hearing, the hearing panel makes its decision and the Hearing Chair writes the decision, referring to relevant sections of the *Workers' Compensation Act* and WCB policy. The written decision is distributed to the hearing panel for final review, formatted by the Appeals Assistant, and then published on the Canadian Legal Information Institute website.

## Achievements and Community Involvement

### **Alberta's Top 70 Employers**

For the third consecutive year, the Appeals Commission was selected as one of Alberta's Top 70 Employers. This is an annual award from the editors of Canada's Top 100 Employers, who evaluate Alberta employers based on the same eight criteria as the national competition: physical workplace, work atmosphere, benefits, vacation and time off, communication, performance management, training, and community engagement. It recognizes employers who focus on becoming leaders in their field, and creating exceptional work environments and progressive human resource policies.

### **Employee Engagement Survey**

Our annual employee engagement survey was distributed to the Appeals Commission in November 2020. The purpose of this survey is to collect feedback on workplace engagement and to evaluate employee morale and satisfaction. Even after a challenging year with the COVID-19 pandemic, the Appeals Commission remained highly engaged and optimistic. Our overall score was 85%, which was 14 points above the public sector benchmark. Team members consider the Appeals Commission to be a positive workplace that makes safety, mental health, and exceptional client service important priorities.

### **Stocking Stuffers for Seniors**

For the third year in a row, the Appeals Commission participated in Stocking Stuffers for Seniors, which partners with local care homes and charities to provide gifts for isolated and vulnerable seniors. The pandemic made the need even greater in 2020. It also made the logistics more complicated – donations were collected electronically, and much of the shopping was done online. We delivered 26 large bags of essential items and small treats for distribution to seniors in downtown Edmonton. The Appeals Commission is grateful for this opportunity to spread a little holiday cheer and support our local community.

### Contact Information

For more information, please contact the Appeals Commission at:

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# APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION