
2022-2023
**ANNUAL
REPORT**

APPEALS
COMMISSION
FOR ALBERTA WORKERS' COMPENSATION

Alberta  Government

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Message from the Minister



It is my privilege to present the Annual Report of the Appeals Commission for Alberta Workers' Compensation for the fiscal year ending March 31, 2023.

The Appeals Commission operates under the authority of the *Workers' Compensation Act* and is the final level of appeal for decisions made by the Workers' Compensation Board (WCB). The Commission is independent of the WCB and accountable to Albertans through the Minister of Jobs, Economy and Trade. Two additional programs are the responsibility of the Commission: the Advisor Office, which provides expert, no-cost advice and advocacy to workers and employers in Alberta, and the Medical Panels Program, which convenes panels to answer medical questions posed by the WCB or Appeals Commission.

The Appeals Commission plays an important role in ensuring a fair and sustainable workers' compensation system. The services offered by the Commission ensure that workers and employers in Alberta have an opportunity to have their concerns heard, and the resources they need to appeal decisions and bring disputes to resolution.

Thank you to the Appeals Commission for its continued provision of services, programs and processes that help maintain safe and healthy workplaces in Alberta.

A handwritten signature in blue ink that reads "Matt Jones". The signature is fluid and cursive.

Honourable Matt Jones
Minister of Jobs, Economy and Trade

Message from the Chief Appeals Commissioner and CEO

It is my pleasure to share the Annual Report of the Appeals Commission for Alberta Workers' Compensation for the 2022-2023 fiscal year.

In this Report, we celebrate a year of performance excellence and ongoing evolution. Guided by our values of integrity, accountability, respect and service, we continue to meet or exceed our performance targets while taking ambitious steps to achieve our vision of fair, client-focused appeal, advisory and medical panel experiences.

In 2022-2023, the Appeals Commission rolled out a five-year strategic plan to ensure that the different branches of our organization, notwithstanding their very different functions within Alberta workers' compensation system, are working towards the same goals. The strategic plan has four priority areas: our clients, our team, our stakeholders and our operations. It provides a roadmap for the future and will inform our efforts over the coming years. Crucially, the strategic plan was grounded in feedback from our team members, our clients and our stakeholders.

2022-2023 also saw a number of successes for the Appeals Commission, including:

- A return to in-person hearings, while maintaining the option of virtual hearings for clients who prefer to participate by teleconference or video conference;
- Rollout of a post-hearing client satisfaction survey;
- Enhancement of client-facing materials, including information sheets about our top issues of appeal;
- Implementation of Quality Management Plans for each branch of the Advisor Office, outlining service standards and performance metrics for team members;
- Eliminating the backlog at the Medical Panels Program by advancing all active medical panel requests to the scheduling phase of the process by year end;
- Recognition as a Top 75 Alberta Employer for the fifth year in a row; and
- Ongoing training for team members in respect, equity, diversity and inclusion.

As always, these accomplishments would not be possible without our team members, who live our values and strive for excellence every day. The Appeals Commission's accomplishments are a reflection of the dedicated and creative individuals that make up our organization and we look forward to continued evolution in the years ahead.

Sincerely,



Dale Wispinski
Chief Appeals Commissioner and CEO

About the Appeals Commission

This document reports on the performance of the Appeals Commission from April 1, 2022 to March 31, 2023 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), and is independent from the WCB and arm's length from the Government of Alberta. The Minister of Jobs, Economy and Trade is responsible for the Appeals Commission. The Appeals Commission is committed to a fair, client-focused experience, while demonstrating our values of respect, service, integrity and accountability.

In addition to its adjudicative role, the Appeals Commission is also responsible for operating and administering two independent programs: the Advisor Office and the Medical Panels Program. The Advisor Office provides free-of-charge advice and advocacy services to workers and employers in Alberta. The Medical Panels Program convenes medical professionals to answer medical questions posed by the Appeals Commission or WCB, typically in relation to complex claims. All components of the Appeals Commission are supported by an internal Secretariat, which provides shared services and supports cost savings in facilities management, finance and information technology.

The relationship between the Appeals Commission and its programs is governed by a comprehensive Governance and Independence Framework, which ensures independent and unbiased adjudication, advocacy and medical panels.

Our People

The Chief Appeals Commissioner is the CEO of the Commission, and is supported by the Chief Administrative Officer in directing the strategic objectives of the organization as a whole.

At the Tribunal, 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 and reflect the diversity of the communities we serve. Adjudicators are appointed by the Lieutenant Governor in Council. As at year end, the Appeals Commission had 47 adjudicators consisting of one Chief Appeals Commissioner, two Vice Chairs, 12 full-time Hearing Chairs and 32 Commissioners. The Chief Appeals Commissioner oversees the Tribunal with the support of an executive team comprised of two Vice Chairs, General Counsel, and an Executive Director.

At the Advisor Office, 22 Worker Advisors and three Employer Advisors provide advice and assistance to clients, as well as advocacy services before the WCB, Dispute Resolution and Decision Review Body (DRDRB), and the Appeals Commission. The Advisor Office is led by an Executive Director with the support of General Counsel.

The Medical Panels Program is made up of a Medical Panels Commissioner, an Executive Director and a Medical Panels Registrar. The Medical Panels Commissioner is recruited through a public competition and appointed by the Lieutenant Governor in Council. The Medical Panels Commissioner is responsible for striking medical panels with the appropriate expertise, and ensuring that examinations and reports are timely and of the highest quality.

Across the Appeals Commission and its programs, clients are supported by our talented team of dedicated staff members in areas including legal services, stakeholder engagement, case management and administration.

Our Processes

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

Medical panels are made up of three independent physicians with expertise relating to the questions posed by the WCB or the Appeals Commission. These physicians meet with and, if necessary, examine the worker, following which they issue a report that answers the questions posed. Medical panel reports are not published.

2022-2023 Achievements

In the 2022-2023 fiscal year, the Appeals Commission continued to enhance its operations, guided by its Governance and Independence Framework, and its commitment to fair, client-focused services.

Strategic Planning

In 2022-2023, we were very pleased to create and roll out a five-year strategic plan. Inspired by feedback from our team members and stakeholders, the strategic plan articulates our priorities and key objectives for the years ahead. Importantly, it ensures alignment across all components of the Appeals Commission, with a focus on our clients, our team, our stakeholders and our operations. We are confident that the strategic plan will support the continued advancement of our vision, mission and values across the Tribunal, Advisor Office, Medical Panels Program and Secretariat, and we look forward to reporting on accomplishments arising from the strategic plan in the years ahead.

A Safe, Healthy and Engaged Workplace

The Appeals Commission has a reputation as a great place to work, and we work hard to maintain this reputation. The quality of our workplace and the continual improvement of the training and support that we offer our team members continued to be a high priority for the Appeals Commission in 2022-2023.

Top 75 Employer

In January 2023, the Appeals Commission was proud to again be named as one of Alberta's Top 75 Employers. This special designation recognizes the Alberta employers that lead their industries in offering exceptional places to work.

Supporting Mental Health

To support one of our key drivers of engagement, we continued to implement a more comprehensive workplace mental health support system, providing all teams members access to the Canadian Mental Health Association's *Not Myself Today* platform. In the past fiscal year, we also began to develop a comprehensive psychological health and safety program which will be measured against the national Canadian standard.

Respect, Equity, Diversity and Inclusion

Across the Appeals Commission, we continued to reflect the diversity of the communities we serve, and to ensure that our team is informed and aware of the diverse needs of those who access our services. In 2022-2023, our team members had the opportunity to attend three informative and engaging training sessions that support respect, equity, diversity and inclusion:

- *Disability Awareness*: This thought-provoking session included ableism, dignity, language choices, and being an ally.
- *Corporate Inclusivity*: In this workshop, presenters explored issues of diversity and inclusion in the workplace, and increased our knowledge of 2SLGBTQ+ identities.
- *Inclusion by Design*: This examination of systemic discrimination and the experience of exclusion contained insights about how inclusive workplaces can be designed.

At the Tribunal, our active Respect, Equity, Diversity and Inclusion Committee educated us with monthly newsletters that explored the history and current importance of commemorative events including: the International Day of Multilateralism and Diplomacy for Peace, Asian Heritage Month, Pride Month, International Literacy Day, the International Day for Tolerance, International Mother Language Day, and the International Day of Women Judges.

Client Service

The Appeals Commission continued to enhance its client engagement and further develop its client resources. In October 2022, all frontline Tribunal staff participated in an interactive customer service refresher that gave them the opportunity to hone their skills, discuss scenarios, and brainstorm appeals services process improvements.

To further support our clients in preparing for their appeals and understanding what to expect, in 2022-2023 the Tribunal published information sheets on our Top Issues of Appeal. These plain language resources are designed to help a party or representative make an effective submission to the Appeals Commission in respect of one of our common issues.

At the start of the 2022-23 fiscal year, the Tribunal launched its first Client Exit Survey. After each hearing, parties and representatives were invited to comment on their appeal experience. Over these 12 months, 95% of respondents said that we were friendly and professional before the hearing, 90% reported that they felt safe and respected during the hearing, and 92% felt their needs were understood during the hearing. Results are being used to inform our service enhancements and program development.

In January 2023, as part of its commitment to service and transparency, the Advisor Office updated its policy manual for client reference. The manual outlines what services clients can expect from the Advisor Office. It also addresses circumstances where the Advisor Office may withdraw services.

Quality Assurance and Red Tape Reduction

The Advisor Office finalized Quality Management Plans for each of its branches in 2022-23. These plans outline Advisor Office service standards and performance metrics for all staff, and define how we plan, manage and enhance services.

The Medical Panels Program moved from a “first referred, first booked” system to a triaged system. The triage is based on how quickly a file can be scheduled based on physician specialties. This new system significantly improved timelines for our clients.

The Appeals Commission continued its commitment to accessible justice in 2022-2023, providing leadership in this area. At the November 2022 Symposium held for the Canadian Workers' Compensation Appeals Tribunals group, our Chief Appeals Commissioner presented “A Search for Standards: Access to Justice at the Appeals Commission.” This presentation outlined how the Tribunal created its own system to measure its performance against three current access to justice indices, and provided tips for tribunals who might wish to follow the same model.

Community Involvement

For the fifth 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. To ensure that our donation went to those most in need, we collected money and then presented our local organization with a donation. The Commission is grateful to have this opportunity to support seniors in our Edmonton community.

2022-2023 Year in Review: Tribunal

The Appeals Commission is committed to processing appeals as quickly as possible, and our performance reflects this commitment. We monitor our timelines on a continual basis and make adjustments as required to maintain our tradition of excellence in this regard.

The total 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. While the total appeal cycle is sometimes impacted by operational matters, staffing issues or the complexity of appeals, we are proud of our history of consistent and timely performance.

Timelines

Average number of days from appeal successfully filed to first available hearing date

For decisions published in 2022-2023, our average number of days from the date the appeal was successfully filed to first available hearing date was 151 days.

Looking ahead, we anticipate that this number will trend upwards throughout 2023-2024 before normalizing again near target. This trend reflects a shortage in Hearing Chairs and an increase in new appeals. We are actively working to mitigate this trend. Please note that additional delays, which are beyond the control of the Commission, are not included here.

Target	2020-2021	2021-2022	2022-2023
150 days	170 days	143 days	151 days

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

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

Target	2020-2021	2021-2022	2022-2023
30 days	28 days	31 days	29 days

The Appeals Commission also tracks the percentage of decisions published within targeted time frames.

Decisions Issued	2020-2021	2021-2022	2022-2023
0-30 days	67.74%	64.79%	72.83%
31-60 days	24.42%	22.12%	15.75%
61-90 days	6.68%	8.80%	8.68%
91+ days	1.15%	4.29%	2.74%

Hearings

The type of hearing is requested by a party and ultimately determined by the Appeals Commission. In 2022-2023, we conducted 432 hearings: 270 by teleconference/video conference, 117 documentary hearings, and 45 in-person hearings. The Appeals Commission has noted the popularity of virtual hearings and will continue to routinely offer teleconference and video conference hearings as options for our clients.

Representation before the Appeals Commission

The majority of appeal participants appear before the Appeals Commission with the assistance of a representative. In 2022-2023, 54% of appeal participants appeared with a representative from the Advisor Office, 35% appeared with other representatives (for example, lawyers or family members), and 11% 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 most popular way to submit an appeal is through our website, followed by email. Clients also have the option of a paper submission through mail or fax.

Application Type	2020-2021	2021-2022	2022-2023
Time Extensions	4	12	17
Reconsiderations	48	46	43
Initial Appeals	467	517	592

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	2020-2021	2021-2022	2022-2023
Time Extensions	4	12	10
Reconsiderations	83	51	38
Initial Appeals	494	499	487

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 2022-2023 year, there were 375 issues confirmed, 140 issues varied, and 177 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	2021-2022	Issues of Appeal	2022-2023
1. Acceptability of Claim	131	1. Acceptability of Claim	178
2. Additional Entitlement	126	2. Additional Entitlement	154
3. Rehabilitation Services	81	3. ELP Calculation	56
4. Medical Aid Responsibility	71	4. Medical Aid Responsibility	55
5. Temporary Total Disability	67	5. Rehabilitation Services	49

2022-2023 Year in Review: Advisor Office

The Advisor Office provides expert, no-cost advice and advocacy to workers and employers in Alberta, and strives to make its services available to anyone who needs them. Over the course of the year, the Advisor Office continuously reviewed its performance measures to ensure they provide the best reflection of the program’s purpose and standards. We are very pleased to share the results below, and expect that data on the Advisor Office will continue to progress with its evolving operations.

Advisor Office Performance

The Advisor Office has two separate branches, the Worker Advisor Branch and the Employer Advisor Branch. Demand for services from both branches remained high.

	2021-2022	2022-2023
New Worker Clients	1131*	1202
New Employer Clients	144	150
Workers Files Closed	1633	1436
Employer Files Closed	133	125
DRDRB Hearings Attended	294	236
Appeals Commission Hearings Attended	222	194

Client Feedback

The Advisor Office consistently receives positive feedback from clients. In 2022-2023, 93% of clients indicated that they would recommend the services provided by the Advisor Office. Below is a sample of some of the comments received from the client survey that the Advisor Office issues upon the closure of its files:

Client feedback about Worker Advisors

“[The] entire staff...were incredible I have told many people of my experience with the advisor office and tell them never to give up; these people do fantastic work. I thank you all again.”

* The final number was 1134.

“Exceptional service, professionalism, and understanding to my case and personal trauma, very satisfied.”

“The level of professionalism, knowledge, compassion and overall experience with my advisor relieved so much stress and anxiety. Can’t express in words my gratitude. Would highly recommend.”

Client feedback about Employer Advisors

“My advisor was incredibly knowledgeable and professional. He was able to answer all of our questions and was a valuable resource.”

“The service provided was exceptional. The advisor explained our options and walked me through all scenarios and possibilities. The advisor even acted on our behalf for the DRDRB.”

“100% would recommend this service to colleagues. Very professional. It was above and beyond what I expected to be honest.”

2022-2023 Year in Review: Medical Panels Program

The 2022-2023 fiscal year saw significant progress at the Medical Panels Program. Thanks to coordinated efforts from Medical Panels Program team members, all outstanding medical panel requests were processed up to the scheduling stage. Crucially, our accomplishments over the course of this fiscal year will help us work towards improved targets and established standards so that our clients and stakeholders have clear expectations when their matter is referred to a medical panel.

Medical Panels Program Performance

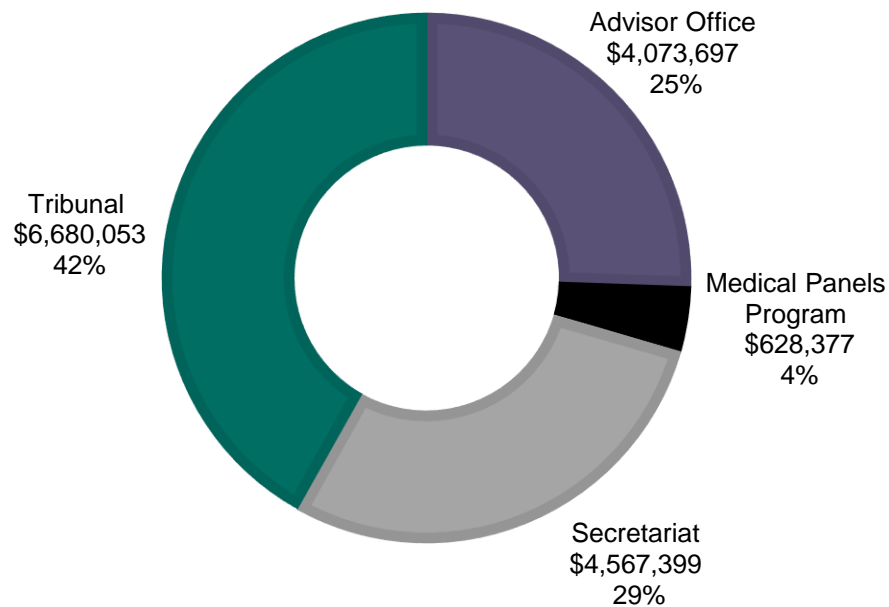
	2021-2022	2022-2023
Active Files as of April 1	27*	15
New Medical Panel Referrals Received	11	7
Files Closed	20*	10
Active Files as of March 30	18	15

* This number was based on inherited data and systems for tracking medical panel metrics, which have since been updated and refined. As a result, some historical metrics cannot be verified.

Finance

Fiscal responsibility continues to be a priority for the Appeals Commission. In this fiscal year, we ran a consolidated budget encompassing our new programs for the first time. The total Appeals Commission expenditures in 2022-2023 amounted to 95% of our budget. All of our major program operational expenses (such as rent and information technology support) are accounted for through the Secretariat.

Cost Overview



Decision Review

Appeal participants who are dissatisfied with an appeal decision have several options for further review, including a reconsideration, judicial review and statutory appeal application to the Court of King's Bench, or a complaint to the Alberta Ombudsman. In 2022-2023, the percentage of decisions unchallenged or upheld exceeded our target of 98%.

Judicial Review

From April 1, 2022 to March 31, 2023, the Alberta courts issued six decisions with respect to judicial review and statutory appeal applications for decisions of the Appeals Commission.

1. In 2023 ABKB 18, the Court of King's Bench dismissed the application on the basis that the Appeals Commission's decision met the standard of review of reasonableness. The Applicant argued that the Appeals Commission decision was incorrect in its application of the relevant sections of policy and legislation, was procedurally unfair, and failed to follow the rules of natural justice in its weighing of the evidence. The Court concluded that the decision was intelligible, justifiable, and transparent.
2. In 2022 ABKB 633, the Court of King's Bench dismissed the application on the basis that the Appeals Commission's decision met the standard of review of reasonableness. The Applicant argued that the Appeals Commission decision was incorrect in its application of the relevant sections of policy and legislation, was procedurally unfair, and failed to follow the rules of natural justice in its weighing of the evidence. The Court concluded that the decision was intelligible, justifiable, and transparent in relation to the facts and law. Additionally, the court determined that it would not hear a new issue that was not raised before the Appeals Commission.
3. In 2022 ABKB 776, the Court of King's Bench dismissed the application on the basis that the Appeals Commission decision was correct in determining that it did not have jurisdiction to provide the remedy being sought by the Applicant.
4. In an unreported case, the Court of King's Bench dismissed the application on the basis that the Appeals Commission's decision met the standard of review of reasonableness. Additionally, the court determined that it would not hear new issues that were not raised before the Appeals Commission.
5. In 2022 ABQB 545, the Court of Queen's Bench dismissed the application on the basis that the Appeals Commission correctly interpreted the definition of "spouse" and the resulting decision was reasonable. Additionally, the Court found that the Appeals Commission acted fairly and within its authority when it questioned the Applicant regarding aspects of her appeal.

6. In an unreported case, the Court of King's Bench dismissed the application on the basis that the Appeals Commission's decision met the requisite standard of justification, transparency and intelligibility and is justified within its factual and legal constraints. Additionally, the Court found that the hearing was procedurally fair.

Court of Appeal

From April 1, 2022 to March 31, 2023, the Alberta Court of Appeal issued one decision with respect to an appeal of a Court of King's Bench decision that found an Appeals Commission decision unreasonable.

1. In 2023 ABCA 81, the Appellant appealed a Court of King's Bench decision to strike his application for judicial review. The Court of King's Bench found that the Appellant had failed to serve the required parties within the legislated time limits and struck his application for judicial review on the basis that he was time barred from proceeding. The Court of Appeal upheld the Court of King's Bench decision and found that the time limitations for service found in the *Workers' Compensation Act* and the *Alberta Rules of Court* are to be strictly applied and the Court has no jurisdiction to extend the time limits. The appeal was dismissed.

The Ombudsman

From April 1, 2022, to March 31, 2023, there were seven informational requests using the Ombudsman's complaint early resolution process related to Appeals Commission decisions. Of those, two of the early resolution complaints resulted in a finding that the Appeals Commission decisions were administratively fair. The remaining complaints were ongoing as of fiscal year end.

For more information, please visit:

www.appealscommission.ab.ca

<https://advisoroffice.alberta.ca>

<https://medicalpanels.alberta.ca>

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