
2023-2024 ANNUAL REPORT

APPEALS
COMMISSION
FOR ALBERTA WORKERS' COMPENSATION

Alberta  Government

Table of Contents

Table of Contents.....	i
Message from the Minister	1
Message from the Chief Appeals Commissioner and CEO	2
About the Appeals Commission	4
2022-2023 Achievements	6
2022-2023 Year in Review: Tribunal	10
2022-2023 Year in Review: Advisor Office	13
2022-2023 Year in Review: Medical Panels Program.....	15
Finance	16
Decision Review	17

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, 2024.

The Appeals Commission operates independently of the Workers' Compensation Board (WCB) under the authority of the *Workers' Compensation Act*. It is the final level of appeal for decisions made by 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 where workers and employers in Alberta have their concerns heard, and the resources they need to appeal decisions.

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".

Honourable Matt Jones

Minister of Jobs, Economy and Trade

Message from the Chief Appeals Commissioner and CEO

Thank you for your interest in the Appeals Commission and for taking the time to review our 2023-2024 Annual Report. This fiscal year brought the opportunity for our team to embrace our ongoing evolution while working together to address challenges and welcome new ways of doing things. I am very proud of our performance and of the talented group of individuals who bring their energy, innovation and dedication to this organization on a daily basis.

Over the course of the 2023-2024 fiscal year, we have made significant progress on many of the objectives articulated in our five-year strategic plan. Work took place in all four of our priority areas, with advancements in serving our clients, supporting our team, understanding our stakeholders, and enhancing our operations. Of particular note is progress we have made to continue displaying leadership in client service, and to ensure excellence in governance across our complex organization.

In 2023-2024, the Appeals Commission saw a 14% increase in appeal volume, coupled with staffing challenges among both our Hearing Chair and Worker Advisor teams. Notwithstanding that all operational timeline targets continued to be met by our Appeals Services team, this led to an average front-end appeal timeline of 189 days – 39 days over our target of 150 days. A focus of 2023-2024 was addressing this issue through recruitment, much of which was concluded in April 2024. As our new team members are onboarded, we anticipate reductions in our timelines. Please note that these reductions will not be immediately apparent in our statistics, as reporting takes place at the time decisions are issued.

Notwithstanding these challenges, we are delighted to share our many accomplishments over the course of 2023-2024, including:

- Once again exceeding our ambitious 30-day decision timeline with an average of 29 days;
- Being named a Top Alberta Employer for the sixth year in a row;
- An overall employee engagement score of 86%, which is 16 percentage points above the benchmark for public organizations. As a reference point, our engagement score is at approximately the 95th percentile;
- Completion of our third Access to Justice Self-Assessment for the Tribunal, with increases in scores across the board; and development at the Advisor Office of an Access to Justice Index for Advocacy Offices;
- Establishment of formal timeline targets and expectations for processes at the Medical Panels Program;
- The rollout of new guidance documents for clients whose matter is referred to a medical panel;
- Continued advancement of our multi-year information technology/case management renewal project.

As I reflect on the 2023-2024 fiscal year, I am grateful for our engaged stakeholders, our talented team, and the workers and employers who access our services and inspire our continuous improvement. It is a privilege to lead the Commission's work in achieving our vision of a fair, client-focused appeal, advisory and medical panels experience.

Sincerely,



Dale Wispinski, KC

Chief Appeals Commissioner and CEO

About the Appeals Commission

This document reports on the performance of the Appeals Commission from April 1, 2023 to March 31, 2024 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 of year end, the Appeals Commission had 50 adjudicators consisting of one Chief Appeals Commissioner, two Vice Chairs, 14 full-time Hearing Chairs and 33 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, 19 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 and a Director. 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 Appeals Commission or WCB. 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.

2023-2024 Achievements

In the 2023-2024 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

Our projects continue to be guided by a deliberate, forward-looking strategy outlined in the Commission's 2023-2028 Strategic Plan. This plan is grounded in our values and organized around our key strategic priorities: our clients, our stakeholders, our operations, and our team. It ensures alignment across all branches of the Appeals Commission and leverages synergies between program development areas within the clearly defined parameters of our Governance and Independence Framework.

Integral to achieving several of our client- and stakeholder-related strategic goals is the creation of a new Client and Community Services role at the Tribunal. The focus of this role is enhancing services for diverse clients, providing educational materials, and developing a community outreach program.

A Safe, Healthy and Engaged Workplace

The Appeals Commission has a reputation as a great place to work, and maintaining this reputation is very important to us. Particular priorities for 2023-2024 were team member engagement, the development of an Appeals Commission recognition program, and continued education and awareness about respect, equity, diversity, and inclusion.

Top 80 Employer

In February 2024, the Appeals Commission was proud to again be named as one of Alberta's Top Employers. This special designation recognizes the Alberta employers that lead their industries in offering exceptional places to work and the most progressive and forward-thinking programs across eight criteria, including workplace, employee communications, and training and skills development.

Team Member Engagement

It is our practice to conduct regular Employee Engagement Surveys through a third-party expert. Survey results allow us to better understand the strengths and needs of our organization and to respond accordingly.

Our 2023 Engagement Survey reported that team members across all Appeals Commission branches are highly engaged, proud to work for the Appeals Commission, and optimistic about

our future. Areas of strength are innovation, senior leadership, information and communication, and the growth and development of our team members.

In the 2023-2024 fiscal year we also met our strategic priority to ensure that leaders across the organization are reviewed on a regular basis and provided with constructive feedback by engaging a consultant to conduct 360-degree reviews of all senior leaders at the organization.

Recognition Program

March 2023 saw the roll out of ACcolades, our much-anticipated Appeals Commission recognition program. This program recognizes team members who exemplify and live our values of respect, integrity, accountability and service. All Commission team members are encouraged to recognize their peers by submitting nominations for the annual ACcolades awards.

Respect, Equity, Diversity and Inclusion

A priority across the Appeals Commission is ensuring that we reflect the diversity of the communities we serve, and that our team is informed and aware of the diverse needs of those who access our services.

In 2023-2024, all branches continued to include indigenous culture and history training as part of the onboarding of new team members. We also had the opportunity to attend two informative and engaging training sessions that support respect, equity, diversity and inclusion: one on the emerging concept of cultural humility, and one in honour of the National Day of Truth and Reconciliation.

Client Service

The Appeals Commission continued to enhance its client engagement and further develop its client resources in 2023-2024.

Supporting Distressed Clients

To support clients who may become distressed, and provide tools and resources for the team members providing this support, the Tribunal developed an enhanced series of distressed client procedures. We also worked with the Distress Centre Calgary to provide training for all frontline staff.

Client Exit Survey

The Tribunal continued its Client Exit Survey in 2023-2024. After each hearing, parties and representatives are invited to comment on their appeal experience. Over these 12 months, 97% of respondents said that we were friendly and professional before the hearing, 96% 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.

The Advisor Office also continued with its Exit Survey, with 92% of clients indicating that they would recommend the services of the Advisor Office.

Quality Assurance and Red Tape Reduction

The Tribunal began development of a formal quality assurance framework that will track our many current and planned service enhancements and ensure a continuous cycle of review.

The Advisor Office developed a manual of best practices to guide staff in providing effective advocacy while being efficient with existing resources. Writing guides were also developed for Worker Advisors, along with a comprehensive quality assurance model to assess the quality of written appeal submissions.

The Medical Panels Program published several Practice Guidelines outlining the medical panel process in plain language. These documents significantly increase access to information for clients whose matters are referred to a medical panel.

Access to Justice

The Tribunal conducted its third biennial access to justice measurement, assessing its operations against the Federal Index and national best practices for tribunal excellence and self-represented parties. Service improvements since 2021 have resulted in the Tribunal's 2023 score rising an average of nine per cent across the three access to justice indices. These scores will continue to inform new initiatives that support our clients and our team.

The Appeals Commission also continued to provide leadership in accessible justice in 2023-2024. At the October 2023 Access to Justice Symposium organized by the Workplace Safety and Insurance Appeals Tribunal (Ontario), our Chief Appeals Commissioner participated on a panel titled "Measuring and Improving Access to Justice: A2J Indices," and the Tribunal's General Counsel participated on a panel for "Hot Topics and Noteworthy Cases on Access to Justice and Workers' Compensation Law".

In addition, the Advisor Office developed an Access to Justice Index for advocacy offices and presented it at the Annual General Meeting for the Canadian Association of Workers' Advisors and Advocates (CAWAA).

Community Involvement

For the 2023 holiday season, the Appeals Commission raised \$1500 which allowed us to adopt four families to feed as part of the Edmonton Holiday Hamper initiative. The Appeals Commission is grateful to support families in need in our Edmonton community.

At the Advisor Office, the Employer Advisor Branch volunteered at the Alberta Construction Safety Association's annual National Day of Mourning Ball Hockey Tournament hosted by the Edmonton Regional Safety Committee, with proceeds going to support the families of Albertans killed or injured as a result of a workplace incident.

2023-2024 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 adjust 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 2023-2024, our average number of days from the date the appeal was successfully filed to first available hearing date was 189.39 days.

In last year's Annual Report, we anticipated that this number would trend upwards in 2023-2024 before normalizing again near target, and our prediction for the 2024-2025 fiscal year is similar. As our 2024 intake of new Hearing Chairs completes onboarding, we expect that additional hearing capacity will start to become available. Our planning indicates that the impacts of this capacity on our timelines should start to become apparent in the 2025-2026 fiscal year.

Please note that additional delays, which are beyond the control of the Commission, are not included here.

Target	2021-2022	2022-2023	2023-2024
150 days	143 days	151 days	189 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	2021-2022	2022-2023	2023-2024
30 days	31 days	29 days	29 days

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

Decisions Issued	2021-2022	2022-2023	2023-2024
0-30 days	64.79%	72.83%	74.18%
31-60 days	22.12%	15.75%	15.92%
61-90 days	8.80%	8.68%	7.51%
91+ days	4.29%	2.74%	2.35%

Hearings

The type of hearing is requested by a party and ultimately determined by the Appeals Commission. In 2023-2024, we conducted 421 hearings: 149 by teleconference, 146 documentary hearings, 89 in-person, and 37 by videoconference. The Appeals Commission has noted the popularity of virtual hearings and will continue to routinely offer teleconference and videoconference 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 2023-2024, 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	2021-2022	2022-2023	2023-2024
Time Extensions	12	17	23
Reconsiderations	46	43	63
Initial Appeals	517	592	678

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	2021-2022	2022-2023	2023-2024
Time Extensions	12	10	30
Reconsiderations	51	38	43
Initial Appeals	499	487	469

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 2023-2024 year, there were 424 issues confirmed, 6 issues varied, 115 referred back to WCB and 137 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	2022-2023	Issues of Appeal	2023-2024
1. Acceptability of Claim	178	1. Additional Entitlement	172
2. Additional Entitlement	154	2. Acceptability of Claim	145
3. ELP Calculation	56	3. Temporary Total Disability	101
4. Medical Aid Responsibility	55	4. Medical Aid Responsibility	77
5. Rehabilitation Services	49	5. Rehabilitation Services	70

2023-2024 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. Over the 2023-24 fiscal year, the Advisor Office focused on developing standards for efficiency in order to serve as many clients as quickly as possible. The Advisor Office also expanded its quality assurance program with a focus on written appeal submissions.

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.

	2022-2023	2023-2024
New Worker Clients	1202	1286
New Employer Clients	150	167
Workers Files Closed	1436	1302
Employer Files Closed	125	153
DRDRB Hearings Attended	236	297
Appeals Commission Hearings Attended	194	218

Client Feedback

The Advisor Office consistently receives positive feedback from clients. In 2023-2024, 92% 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:

General Client Feedback

"For people like me that have a mix of physical and psychological issues, as well as being a 'new Canadian', having an advisor office that knows the system as well as they do is nothing short of life saving! Experienced amazing service and understanding from your office. I felt heard and understood."

"They removed the stress of the situation and kept me well informed of the process. Gave me hope in a very unsure situation. Thank you!!"

Client Feedback about Worker Advisors

"My advisor had a lot of experience. He was very clear with his movement on my case and was also a very kind person to deal with. His sympathetic and professional attitude made my dealings with the Advisor Office amazing. He was very thorough with my case and did an excellent job providing the best service possible for my situation."

"Extremely happy with the Advisors Office. Very professional and prompt with their services. My advisor went above and beyond. This experience was life changing for my family and I."

Client Feedback about Employer Advisors

"I just want to acknowledge the advisor I worked with. He was prompt in responding to emails, he explained the legislation/policy very clearly and listened carefully to fully understand my perspective. I was very impressed with his professionalism."

"We've had two successful outcomes on claims through work with the Advisor Office. In both instances, the advisor was able to take forward the issues that I had previously discussed with WCB with limited success and have favorable outcomes in both."

2023-2024 Year in Review: Medical Panels Program

The 2023-2024 fiscal year saw continued and significant progress at the Medical Panels Program. All outstanding medical panel requests were triaged and processed up to the scheduling stage. New timeline targets were introduced for all major process steps and a series of Practice Guidelines were published to better inform clients about what to expect when their matter is referred to a medical panel.

Medical Panels Program Performance

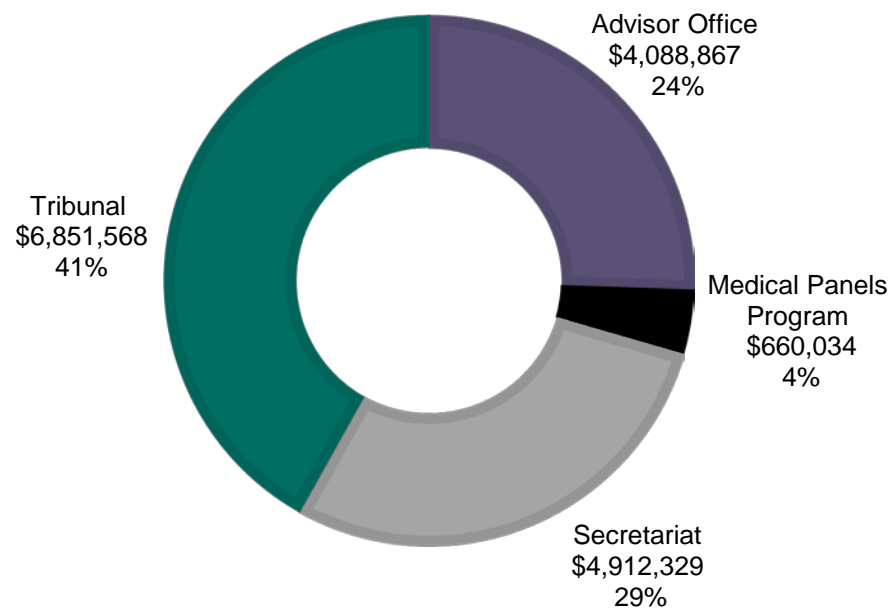
Progress at the Medical Panels Program has been impressive. We are very proud of the enhancements in client service demonstrated by the data below.

	2022-2023	2023-2024
Active Files as of April 1	15	2
New Medical Panel Referrals Received	7	2
Files Closed	10	14
Active Files as of March 30	15	2

Finance

Fiscal responsibility continues to be a priority for the Appeals Commission. In this fiscal year, we ran a consolidated budget encompassing our all of our programs. The total Appeals Commission expenditures in 2023-2024 amounted to 98% of our budget. All 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 2023-2024, the percentage of decisions unchallenged or upheld exceeded our target of 99%.

Judicial Review

From April 1, 2023, to March 31, 2024, the Alberta courts issued three decisions with respect to judicial review applications or statutory appeals of decisions of the Appeals Commission.

1. In 2023 ABKB 256, 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. The Court concluded that the Decision was internally coherent as well as justified in light of the legal and factual constraints.
2. In 2023 ABKB 510, 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; failed to conduct a reasonableness review of the Workers' Compensation Board decision; and failed to follow the rules of natural justice in its weighing of the evidence. The Court concluded that the Decision was procedurally fair and met the reasonableness standard.
3. 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 reasonableness. Additionally, the Court found that the hearing was procedurally fair.

Court of Appeal

From April 1, 2023, to March 31, 2024, the Alberta Court of Appeal issued two decisions with respect to an appeal of a Court of King's Bench decision reviewing an Appeals Commission decision.

1. In 2023 ABCA 317, the Appellant appealed three matters of the Court of King's Bench. He argued that the chambers judge did not afford him the opportunity to be heard and that she erred in the application of s. 51(6) of the *Workers' Compensation Act*. The Court of Appeal made three determinations, however, only two were with respect to Appeals Commission decisions. First, one of the applications was time barred from proceeding and the chambers judge did not err when she dismissed the application. Second, the Court upheld the Court of King's Bench decision and found that the chambers judge did

not err in her conclusion that s. 51(6) had been appropriately applied. Both appeals were dismissed.

2. In 2023 ABCA 285, the Appellant appealed a dismissal of an application for judicial review and statutory appeal before the Court of King's Bench. He argued that although the chambers judge correctly identified that the standard of review is reasonableness, the lower court failed to apply the standard correctly and erred in concluding that the decision of the Appeals Commission was reasonable. The Court of Appeal concluded that the Court of King's Bench made no reviewable error and as a result the appeal was dismissed.

The Ombudsman

From April 1, 2023, to March 31, 2024, there were sixteen complaints resulting in informal requests for information using the Ombudsman's early resolution process related to Appeals Commission decisions. Eight of the early resolution complaints resulted in a finding that the Appeals Commission decisions were administratively fair. The remaining complaints remained open as of fiscal year end.

For more information, please visit:

www.appealscommission.ab.ca

<https://advisoroffice.alberta.ca>

<https://medicalpanels.alberta.ca>

 **APPEALS**
COMMISSION
FOR ALBERTA WORKERS' COMPENSATION