
2018-2019
**ANNUAL
REPORT**

APPEALS
COMMISSION
FOR ALBERTA WORKERS' COMPENSATION

Table of Contents

Message from the Minister	2
Message from the Chief Appeals Commissioner and CEO	3
Introduction to the Appeals Commission	4
Appeal Timelines	5
Finance	6
Decision Review	7
Appeals Received	8
Appeals Concluded	8
Finalized Issues of Appeal	9
Top Five Issues of Appeal	9
About the Appeals Commission	10

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, 2019.

The Appeals Commission is the final level of appeal for workers' compensation matters in Alberta. It is independent of the Workers' Compensation Board (WCB), and is accountable to the Minister of Labour and Immigration.

By providing workers and employers with timely, fair, and independent reviews on WCB decisions, the Appeals Commission ensures Albertans have the resources they need to bring disputes to resolution. The appeals processes followed are consistent with the province's legislation and policy. These decisions help build and maintain safe, fair, and healthy workplaces and ensure everyone is given the opportunity to have their concerns heard.

People are the priority of our work and it is important that Alberta's employers and workers are treated fairly. Looking ahead, we will continue to work with the Appeals Commission to identify opportunities to assist Albertans and bring timely closure to disputes.

I look forward to working with the Appeals Commission as it continues its important work.

[Original signed by]

Honourable Jason Copping
Minister of Labour and Immigration

Message from the Chief Appeals Commissioner and CEO

It is my pleasure to present the 2018-2019 annual report for the Appeals Commission for Alberta Workers' Compensation. As Chief Appeals Commissioner and CEO, I am proud that the Appeals Commission continues to provide high quality, efficient, and fiscally responsible service to Albertans.

During the past year, the Appeals Commission responded to a changing landscape, including the implementation of *Bill 30: An Act to Protect the Health and Well-Being of Working Albertans* and the requirement for a new Code of Conduct as mandated by the *Conflicts of Interest Act*. We continued to meet the challenge of onboarding new commissioners while maintaining our standards of excellence. The Appeals Commission also revised and enhanced internal processes that support our clients, including a series of information technology upgrades.

We ended 2018-2019 with an average appeal processing time of 180 days, which aligns with our internal target and maintains our reputation as one of the most efficient workers' compensation appeals tribunals in Canada. I am also proud to report that during this time the Appeals Commission once again met its goal of favourable decision review by the courts and the Ombudsman. At the same time, we have again ended this year under budget, with our largest outlay (salaries and honoraria) on target and our operating expenses slightly lower than expected.

The Appeals Commission is able to be adaptable and service-focused because of the committed, intelligent, and diverse people that make up our organization. For our hardworking team, 2018-2019 was a year of ongoing dedication to personal and professional development, giving back to the community, and fostering an inclusive, supportive, and positive working environment. In addition to expressing my appreciation for our team, I would also like to thank our former Chief, Douglass Tadman, for the transformative and effective organizational changes he implemented during his tenure.

We look into 2019-2020 with optimism and confidence. We expect the fiscal year ahead to bring renewed focus on understanding and meeting the needs of our clients, and a continued and unwavering commitment to fairness, timeliness, and quality.

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, 2018 to March 31, 2019 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). Our mission is to provide a timely, fair, and independent appeals process consistent with legislation, policy, and the principles of natural justice. The Appeals Commission is independent from the WCB and reports to the Minister of Labour and Immigration. This reporting relationship is guided by the Appeals Commission's Mandate and Roles Document, which is housed with the Agency Governance Secretariat.

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 as representative of either the interests of employers or the interests of workers.

Presently, there are 39 adjudicators consisting of 17 full-time hearing chairs and 22 part-time commissioners. The Chief Appeals Commissioner also acts as the CEO of the Appeals Commission, directing its operations with the support of an executive team comprised of two vice-chairs, general counsel, and an executive director.

Appeal Process

Appeals are heard by panels made up of three adjudicators, who issue a decision that must be implemented by the WCB within 30 days. Decisions of the Appeals Commission are published on the Canadian Legal Information Institute website (www.canlii.org).

Appeal Timelines

The Appeals Commission continues to provide prompt and high quality service in processing appeals. We aim to provide a hearing date for parties as quickly as possible. In 2018-2019, our overall appeal cycle was within our target of 180 days. The appeal cycle includes the combined average number of days from the date the appeal is 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 processes, procedures, and technology to ensure that appeals are processed in the most effective and efficient manner possible.

Average number of days from the date the appeal is filed to the first hearing date offered.

Target	2016-2017	2017-2018	2018-2019
150 days	130.91 days	127 days	136.55 days

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

Target	2016-2017	2017-2018	2018-2019
30 days	30.16 days	37.19 days	43.74 days

Types of Hearings

The Appeals Commission holds in-person and documentary hearings. The type of hearing is requested by a party and ultimately decided by the Appeals Commission. In 2018-2019, the Appeals Commission conducted 468 in-person hearings in our Edmonton and Calgary offices. We also held 120 documentary hearings.

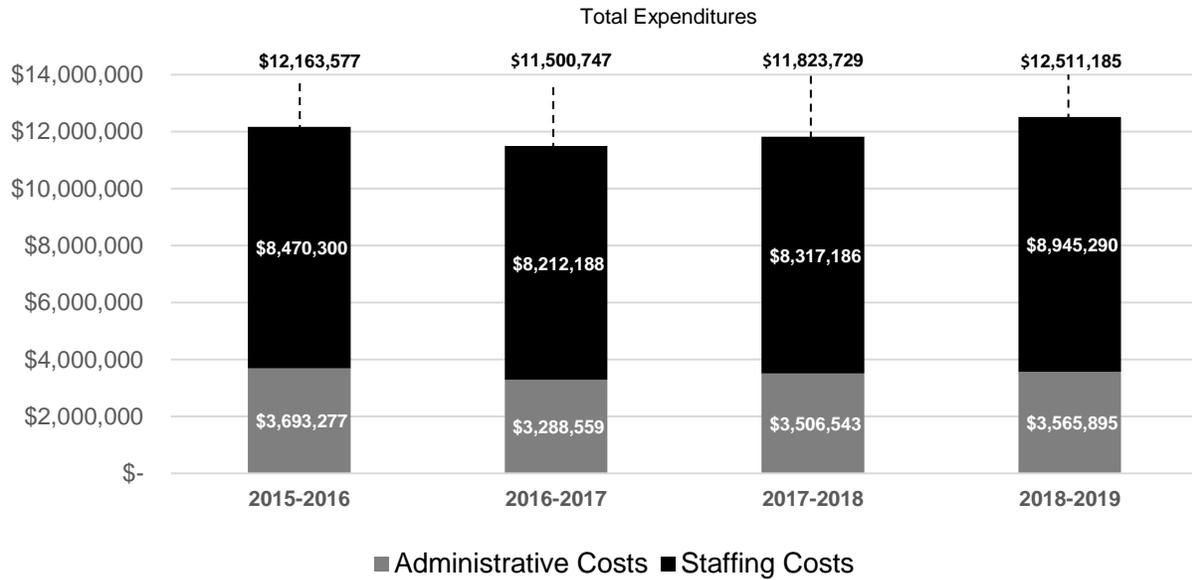
Representation before the Appeals Commission

The majority of appeal participants appear before the Appeals Commission with the assistance of a representative. In 2018-2019, 347 appeal participants appeared with a representative from the Fair Practices Office (formerly known as the Office of the Appeals Advisor), 222 appeared with other representatives (for example, lawyers or family members), and 50 represented themselves.

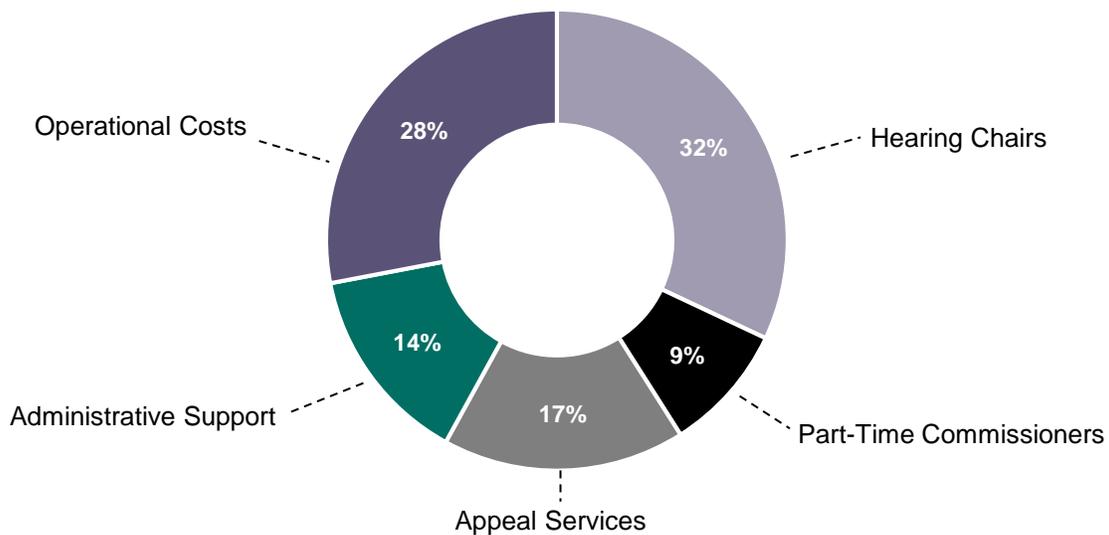
Finance

Fiscal responsibility continues to be a top priority for the Appeals Commission. Our total expenditures in 2018-2019 amounted to 93% of our budget.

Cost Overview



Expenditure Details



Decision Review

Appeal participants who are dissatisfied with an appeal decision have several options for further review, including a judicial review/appeal application to the Court of Queen's Bench, or a complaint to the Alberta Ombudsman or the Fair Practices Office. In 2018-2019, the percentage of decisions unchallenged or upheld was 99.26%.

Review by the Courts

From April 1, 2018 to March 31, 2019, the Alberta courts issued four decisions with respect to judicial review/appeal of decisions of the Appeals Commission.

1. In an unreported case: The worker alleged that the Appeals Commission erred in its interpretation of WCB Policy and failed to consider decisions from courts in other provinces relating to impairment ratings. In an oral judgment, the Court dismissed the worker's application, finding that the Appeals Commission's decision was reasonable.
2. In 2018 ABQB 593/2018 ABCA 290: The Court reviewed the Appeals Commission's decision relating to the worker. The worker did not meet the time requirements for a judicial review/appeal and failed to file a brief with the Court. His application was dismissed for failing to meet these two requirements.
3. In 2018 ABQB 529: The Court reviewed the Appeals Commission's decision that the permanent modified position provided to a worker by the employer was not suitable. The Court deferred to the Appeals Commission panel and its interpretation of the evidence and determined that their decision was reasonable. The application was dismissed.
4. In 2018 ABQB 455: The worker sought judicial review/appeal on the basis that the Appeals Commission's decision that the WCB had no additional responsibility for his back condition was unreasonable and that the hearing was unfair. The Court deferred to the Appeals Commission panel in their analysis of the evidence, found the hearing was fair, and determined that the decision was reasonable. The application was dismissed.

Six additional cases were struck or discontinued.

Review by the Ombudsman and Fair Practices Office

No formal complaints were received from the Office of the Ombudsman in 2018-2019 and four investigations were concluded without a recommendation. We received no formal complaints from the Fair Practices Office, which opened on December 1, 2018.

Appeals Received

The number of appeals received is affected by a variety of factors, including the economic environment, changes in legislation and policy, and the rate of resolution at the WCB.

Application Type	2016-2017	2017-2018	2018-2019
Time Extensions	32	30	18
Reconsiderations	74	66	45
Initial Appeals	778	710	552

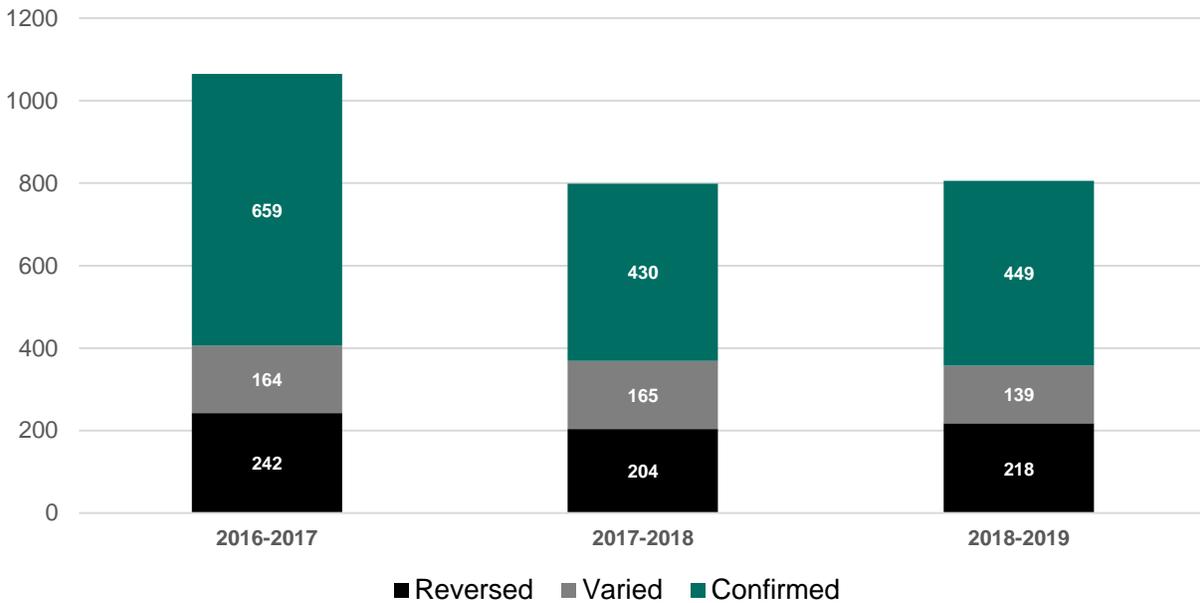
Appeals Concluded

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

Application Type	2016-2017	2017-2018	2018-2019
Time Extensions	28	27	22
Reconsiderations	73	63	33
Initial Appeals	761	590	619

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.



Top Five Issues of Appeal

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

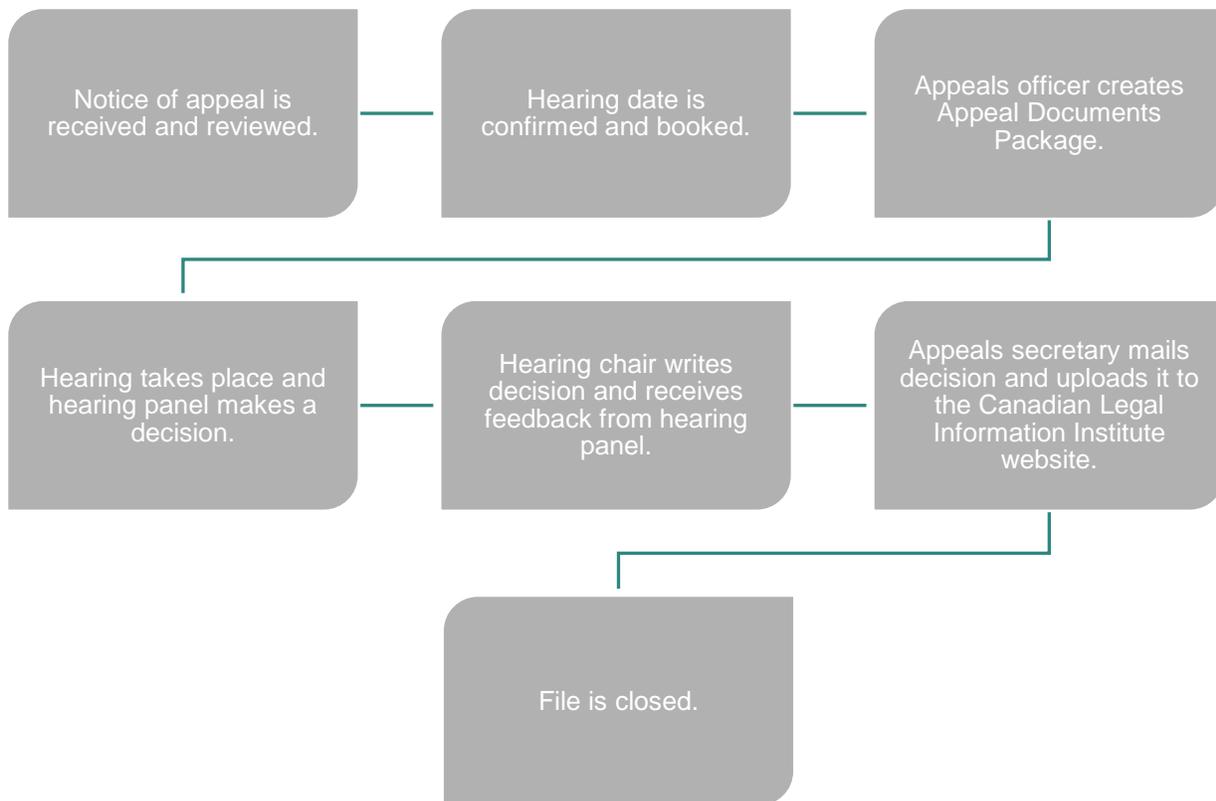
Issues of Appeal	2017-2018	2018-2019
1. Additional Entitlement	162	189
2. Acceptability of Claim	139	149
3. Temporary Total Disability	155	102
4. ELP Calculation	93	88
5. Medical Aid Responsibility	75	69

About the Appeals Commission

The Appeals Commission is committed to reaching high standards of service excellence for our clients and stakeholders. We provide independent and fair appeals, which involves a seven-stage appeal process and 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 during the appeal process.



Position Profiles

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

Appeals Secretary

Appeals secretaries provide administrative and clerical services for appeals officers, vice-chairs and hearing panels. In the overall appeal process, appeals secretaries have a variety of responsibilities, including assisting appeals officers with printing, formatting, editing, and mailing correspondence to clients, and producing appeal-related documents. An appeals secretary is present during hearings, where they are 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 appeals 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 secretary, and then published on the Canadian Legal Information Institute website.

Contact Information

For more information, please contact the Appeals Commission at:

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