

PRACTICE DIRECTIVE #17

**FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY
INFORMATION UPDATE**

Background:

This practice directive provides an overview of amendments to Policy Item #99.30 in the RSCM that were approved by the Panel of Administrators on May 12, 1998. These changes are aimed at clarifying both the information available to workers on disclosure of their claim files and how the Board treats sensitive and personal information.

As well, this directive highlights several aspects of the E-File system that fall within the *Freedom of Information and Protection of Privacy Act* (FIPPA). Finally, two housekeeping items pertaining to the marital status and the disclosure of claim file information to third parties are also addressed.

A previous directive, Practice Directive #8, highlighted key amendments, effective July 1, 1996, to the *Rehabilitation Services and Claims Manual* (RSCM) with respect to the disclosure of worker's personal information to employers.

Panel Resolution:

1. ***Information Available to Workers on Disclosure of Claim Files***

The Panel of Administrators approved amendments to Policy Item #99.30 in order to clarify the information available to workers upon disclosure of their claim files. The first two sentences in the first paragraph of the item have been replaced with the following wording:

The claim file is the master file for recording information used in the adjudication and administration of a claim. Information may exist outside of the claim file. However, all evidence used in the adjudication of the claim is contained in the claim file.

This change acknowledges that information about a worker may be contained outside a claim file. Examples of such information include psychiatric tests, x-rays and investigative reports. The FIPP Department has revised the brochure entitled *Access to Information and Protection of Privacy at the WCB* to specify how a worker can access information not in his or her claim file.

2. ***Sensitive Personal Information***

The Panel also approved revisions to the sensitive personal information reference in Policy Item #99.30 of the RSCM. These changes place more emphasis on ensuring irrelevant information is

not placed on the claim file and the responsibility of Board staff to bring questions to the Manager for a decision. This section will now read:

Sensitive personal information that is received, which has not been specifically requested and which is not relevant to the adjudication or administration of the claim shall be returned to the sender and shall not become part of the claim file. When the Adjudicator or other Board officer has questions about the relevancy of information received, the information shall be brought to the attention of a Manager. The Manager shall make the decision as to whether information received is sensitive or irrelevant and whether the information should be placed on the claim file.

E-File Guidelines:

The movement from a paper-based to an electronic-based file system at the Board necessitated the development of the Electronic Information Management (EIM) Program. The EIM program was approved by the Senior Executive Committee on October 27, 1997 and impacts the management of electronic information throughout the Board. The program is also aimed at ensuring the admissibility and credibility of image-produced copies for judicial and quasi-judicial purposes.

1. Corrections of Misfiled Documents on E-File – Moving E-File Documents from One Claim to Another

When an imaged document has been incorrectly placed on an E-File claim, Board Officers can use the move function in E-File to move the document to the correct claim file. The imaged document will be removed from the incorrect E-File claim and placed on the appropriate claim file.

2. Removal of E-File Documents – Sensitive (Personal) Irrelevant Information Placed on E-File Claims

When sensitive (personal) irrelevant documents have been incorrectly placed on an E-File claim, the claim owner must contact either the Manager of the Operations Department in Compensation Services, or his/her designate who, as Document Guardian, is responsible for the permanent removal of records from the E-File system. To request the removal of a document, send an electronic mail message to the Manager of Operations, or his/her designate, detailing the requested correction, the requestor and the date requested.

In certain instances, sensitive (personal) and irrelevant information is contained on a document which also contains information relevant to the adjudication of the claim and has been placed on the E-File claim. When this occurs, the entire scanned document is printed, the irrelevant information is identified, and the document is sent to the Manager of the Operations Department in Compensation Services or his/her designate. Once received, the irrelevant information is removed from the scanned document, the original is removed, and

the edited document is scanned and placed on the E-File claim.

E-File users should be aware that the delete function in E-File will not permanently remove the scanned document from the file. Any deleted document can be retrieved by the claim owner through the undelete function in E-File. The permanent removal of E-File documents can only be carried out by the Manager of Operations, or his/her designate, who will be responsible for investigating and implementing appropriate changes to E-File claims.

3. Copying E-File Documents

Imaged documents are occasionally placed on E-File claims that reference other claim numbers belonging to the same worker. Claim owners can copy the imaged document to the other claim file while maintaining the document on the original claim.

4. Duplicate E-File Documents

Duplicate copies of documents such as medical reports are received by the Board and placed on E-File. Claim owners can use the delete function in E-File to remove the duplicate document copies from view. Using the delete function in E-File does not permanently delete the file from the WCB database. Claim owners can use the undelete function to retrieve the document at any time.

5. Unsolicited Information – Anonymous and Identified on an E-File Claim

Policy Items #99.23A and 99.23B of the RSCM outline the procedures that are followed when unsolicited and identified anonymous information is received orally or in written form. The procedures for E-File claims are identical to that of paper file claims.

When Board staff receives unsolicited anonymous hard copy information, it is forwarded directly to the Case Manager or other Board officer administering the file. The document or a copy must not be added to the E-File claim. Where the information is clearly irrelevant to the adjudication of the claim, it will be destroyed. Where the Case Manager or other Board officer considers the information relevant or potentially relevant to the worker's claim, the information is transferred to Field Investigations so that it can be investigated and verified. If, following investigation, the information is considered relevant to the adjudication of the claim, the document will be placed on the E-File claim. If, however, following investigation, the information is considered irrelevant, it will then be destroyed.

Care must also be taken in the documentation of unsolicited anonymous information received by telephone. No reference to the content of the telephone conversation is to be placed on the E-File claim until Field Investigations has had the opportunity to investigate and verify the information.

Board staff receiving unsolicited anonymous information must complete the Anonymous Information Sheet, a copy of which is attached to this document. Once completed, the Anonymous Information Sheet is forwarded to the Case Manager or other Board Officer for

review to determine if the information is potentially relevant to the worker's claim. If the information is considered relevant, the Anonymous Information Sheet is sent to Field Investigations through Inter-Office Mail so that it can be investigated and verified. If the information is considered relevant to the adjudication of the claim, the claim owner will have the document placed on the E-File claim. If, however, the information is considered irrelevant, it will then be destroyed.

If unsolicited anonymous information is inadvertently placed on the E-File claim, the Case Manager or other Board officer administering the file must request its removal in accordance with E-File Guideline #2 above.

6. *Personal Inspection of an E-File Claim*

Section 5(2) of the Freedom of Information and Protection of Privacy Act states that: "The applicant may ask for a copy of the record or ask to examine the record." When there were only paper claim files, a worker or employer could come to the Board and physically review his or her own file. The same practice will hold for E-File claims. Each Board office will identify an imaged terminal so that a worker or employer can come to the Board and view their E-File claim in the presence of a Board staff member.

7. *Authorized E-File users in all divisions are reminded that their authority only pertains to files which they have a valid business reason for reviewing.*

Other Issues:

1. *Marital Status*

It has been determined that worker's are no longer required to answer the marital status question on the Form 6. As a result, the Form 6 will be revised to remove the question.

2. *Disclosure of Claim File to Third Parties*

Policy Item #99.31 of the RSCM states that disclosure of claim files will be provided to the representative of the employer or worker if authorized in writing. All Board staff must ensure that a written authorization is on the file prior to the release of claim file information to a third party.

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