

**2004/11/16-04**

**THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA**

**RESOLUTION OF THE BOARD OF DIRECTORS**

**Re: Reconsideration and Reopening Policy Amendments**

**WHEREAS:**

Pursuant to section 82 of the *Workers Compensation Act*, RSBC 1996, Chapter 492 and amendments thereto ("*Act*"), the Board of Directors must set and revise as necessary the policies of the Board of Directors, including policies respecting compensation, assessment, rehabilitation, and occupational health and safety;

**AND WHEREAS:**

On March 3, 2003, the Lieutenant Governor of the Province of British Columbia brought into force the *Workers Compensation Amendment Act (No. 2), 2002* ("Bill 63"), which placed limitations on the authority of the Workers' Compensation Board ("Board") to reconsider and reopen its previous decisions;

**AND WHEREAS:**

Policy regarding the Board's authority to reconsider and reopen previous compensation decisions is contained in Chapter 14 of the *Rehabilitation Services and Claims Manual*, Volume I and II. Policy regarding the Board's authority to reconsider previous assessment decision is contained in *Assessment Manual* policy item AP1-96-1;

**AND WHEREAS:**

Concerns have been raised by decision-makers and stakeholders regarding the lack of clarity in the reconsideration and reopening policies;

**AND WHEREAS:**

Amendments are required to the *Rehabilitation Services and Claims Manual* and the *Assessment Manual* to clarify ambiguity in policy;

**AND WHEREAS:**

The Policy and Research Division has undertaken stakeholder consultation on this issue;

**THE BOARD OF DIRECTORS RESOLVES THAT:**

1. Amendments to the *Rehabilitation Services & Claims Manual*, Volume I and II, attached as Appendix "A", are approved.
2. Amendments to the *Assessment Manual*, attached as Appendix "B", are approved.
4. This resolution is effective on January 1, 2005 and applies to all decisions made on or after that date.

DATED at Richmond, British Columbia, on November 16, 2004.

**By the Workers' Compensation Board**

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**DOUGLAS J. ENNS, CHAIR  
BOARD OF DIRECTORS**

**RE: Changing Previous Decisions –  
General**

**ITEM: C14-101.01**

## **BACKGROUND**

### **1. Explanatory Notes**

The *Act* provides the following mechanisms by which the Board may change its decisions:

- reopenings;
- reconsiderations;
- reviews; and
- setting aside for fraud or misrepresentation.

More information about these mechanisms is presented in the Items C14-102.01 - C14-105.01.

### **2. The Act**

See Items C14-102.01 - C14-105.01.

## **POLICY**

~~There is no POLICY for this Item.~~

**This policy clarifies the types of decisions that do not constitute a reconsideration or a reopening of a previous decision.**

#### **(a) New matters not previously decided**

**The need to adjudicate new matters not previously decided and make decisions on these matters may occur at various points during the adjudication of a claim. The limits in the *Act* on the Board's ability to change previous decisions through a reconsideration or a reopening are not intended to restrict the Board's ability to make new decisions in accordance with the *Act* and policy that do not question previous decisions.**

**Situations in which the Board may make a new decision on a matter not previously decided may generally include, but are not limited to the following:**

- **Initial entitlement to temporary or permanent disability benefits;**

- **Acceptability of additional medical conditions identified during the adjudication of a claim or acceptability of further injury or disease that arises as a consequence of a work injury;**
- **Sections of the Act which give the Board broad discretion to make decisions regarding entitlement at various times over the course of a claim. In applying these provisions, a Board officer may consider a new matter that arises as a result of new information or a change in circumstances that occurs after a previous decision. Two examples are health care and vocational rehabilitation benefits.**
- **Health care benefit entitlement – Section 21 of the Act enables the WCB to approve health care treatment and services to aid in a worker’s recovery from the compensable injury or occupational disease. Consideration for health care benefits may occur at various points during the claim as the nature and severity of the worker’s compensable injury or occupational disease changes and/or there is a determination that additional treatments or services will assist in the worker’s recovery.**

**Decisions regarding entitlement to health care benefits made as new matters arise such as a change in the worker’s medical condition do not constitute a reconsideration of a previous decision. However, in any case where there is a request to retroactively change a past decision or the Board officer reconsiders a prior decision regarding health care, the restrictions on reconsideration apply.**

- **Vocational rehabilitation benefit entitlement – Consideration of entitlement to vocational rehabilitation services under section 16 may be required at various points during the claim to assist in recovery and return to work.**

**A decision to modify, replace or discontinue a rehabilitation plan is a new decision. Any subsequent decision regarding the worker’s future entitlement to vocational rehabilitation services would also be a new decision with prospective application.**

- **A new matter may arise as a result of legislative provisions that expressly direct the WCB to make certain decisions or take certain actions at specified points in the claim. If the WCB fails to render these decisions or take these actions at the specified point, the Board officer must make the decision as soon as the error is discovered in order to fulfill the requirements of the Act. These decisions would have prospective application. For example, under section 33.1(2) of the Act, if a worker’s disability continues for ten cumulative weeks of benefits, the WCB must**

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determine the amount of average earnings of the worker based on the worker's gross earnings for the 12-month period immediately preceding the date of the injury.

### (b) Implementation of Review Division Decisions or WCAT Decisions

On a review or an appeal, the Review Division and the WCAT may make a decision that confirms, varies or cancels the decision under review or appeal. The Review Division and WCAT decisions are final and must be complied with by the Board.

Varying or canceling a decision may make invalid other decisions that are dependent upon or result from the decision under review or appeal.

The reconsideration and reopening requirements under section 96 do not limit changes to previous decisions that are required in order to fully implement decisions of the Review Division or the WCAT.

### PRACTICE

There is no PRACTICE for this Item.

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<b>EFFECTIVE DATE:</b>	<del>March 3, 2003</del> <b>January 1, 2005</b>
<b>AUTHORITY:</b>	ss. 96(2) - (7), <i>Workers Compensation Act</i>
<b>CROSS REFERENCES:</b>	Changing Previous Decisions - Reopenings (C14-102.01), Changing Previous Decisions - Reconsiderations (C14-103.01), Changing Previous Decisions - Fraud and Misrepresentation (C14-104.01), Changing Previous Decisions - Reviews (C14-105.01)
<b>HISTORY:</b>	<b>Amendments effective January 1, 2005 to clarify the difference between a new decision and a change in a previous decision, and to provide guidance on the correction or errors, slips and omissions.</b> New Item consequential to the <i>Workers Compensation Amendment Act (No. 2), 2002</i>
<b>APPLICATION:</b>	Applies to all decisions on and after <del>March 3, 2003</del> <b>January 1, 2005</b>

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**RE: Changing Previous Decisions –  
Reopenings**

**ITEM: C14-102.01**

### **BACKGROUND**

#### **1. Explanatory Notes**

The Board may, at any time, reopen a matter that has been previously decided by the Board or an officer or employee of the Board, if certain circumstances exist.

#### **2. The Act**

Section 96 states, in part:

.....

- (2) Despite subsection (1), any time, on its own initiative, or on application, the Board may reopen a matter that has been previously decided by the Board or an officer or employee of the Board under this Part if, since the decision was made in that matter,
  - (a) there has been a significant change in a worker's medical condition that the Board has previously decided was compensable, or
  - (b) there has been a recurrence of a worker's injury.
- (3) If the Board determines that the circumstances in subsection (2) justify a change in a previous decision respecting compensation or rehabilitation, the Board may make a new decision that varies the previous decision or order.

.....

### **POLICY**

#### **(a) General**

The reopening of a previous decision does not affect the application of the decision to the period prior to the significant change in the worker's medical condition or the recurrence of the worker's injury. Rather, it ~~allows compensation or rehabilitation to be varied subsequent to, and as a result of, the significant medical change or recurrence~~ **enables the Board to reopen matters previously decided and determine a worker's ongoing entitlement.** A reopening involves the adjudication of new matters.

**(b) A reopening is not a reconsideration**

A reopening is to be distinguished from a reconsideration of a previous decision.

A reconsideration occurs when the Board considers the matters addressed in a previous decision anew to determine whether the conclusions reached about these matters reached were valid. Where the reconsideration results in the previous decision being varied or cancelled, it constitutes a redetermination of those matters.

**(c) Grounds for reopening**

A decision may be reopened if, since it was made:

- there has been a significant change in a worker's medical condition that the Board has previously decided was compensable; or
- there has been a recurrence of a worker's injury.

"A significant change in a worker's medical condition that the Board has previously decided was compensable" means a change in the worker's physical or psychological condition. It does not mean a change in the Board's knowledge about the worker's medical condition.

A "significant change" would be a physical or psychological change that would, on its face, warrant consideration of a change in compensation or rehabilitation benefits or services. In relation to permanent disability benefits, a "significant change" would be a permanent change outside the range of fluctuation in condition that would normally be associated with the nature and degree of the worker's permanent disability.

A claim may be reopened for repeats of temporary disability, irrespective of whether a permanent disability award has been provided in respect of the compensable injury or disease. A claim may also be reopened for any permanent changes in the nature or degree of a worker's permanent disability.

**(d) A recurrence of injury is not a new injury**

**A recurrence of an injury may result where the original injury, which had either resolved or stabilized, occurs again without any intervening new injury. A recurrence of an injury may result in a claim being reopened for:**

- **an additional period of temporary disability benefits where no permanent disability award was previously provided in respect of the compensable injury;**

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- an additional period of temporary disability benefits where a permanent disability award was previously provided in respect of the compensable injury; and,
- an additional permanent disability award being provided due to a change in the nature and degree of the worker's permanent disability resulting from the original work injury.

An example of a recurrence of an injury is where a worker has a compensable injury for which temporary disability benefits are paid. The injury resolves and the claim is closed, but later becomes disabling again without any intervening new injury. In these situations it is considered that the original injury has recurred. The result is that the worker may be entitled to an additional period of temporary and/or consideration for permanent disability compensation under the original claim.

A recurrence of injury that entitles a worker to request a reopening of an existing claim is to be distinguished from a new injury that entitles the worker to make a new claim.

~~“Recurrence” refers to a recurrence of the original injury without a second compensable injury.~~ For example, where a compensable injury is aggravated by a second compensable injury, the first injury has not “recurred”. Rather a new injury has occurred that will result in a new claim. The decision whether to reopen the existing claim or initiate a new claim will depend upon the evidence in each case.

**The following types of questions may assist in determining whether there is a recurrence or a new injury:**

- Have there been any intervening incidents, work-related or otherwise?
- Has there been a continuity of symptoms and/or continuity of medical treatment?
- Can the current symptoms be related to the original injury?

### **(e) Reopening on application or on own initiative**

**Section 96(2) sets out the two ways in which the Board may reopen a matter that has been previously decided by the Board: on its own initiative, or on application.**

**A request for a reopening of a previous decision will be considered on application where the worker refers specifically to section 96(2) of the Act or uses language substantially similar to that section. An application may be submitted to the Board in written or verbal form.**

**A reopening request will not be considered on application where:**

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- a worker makes a general request for additional wage-loss benefits, health care benefits, vocational rehabilitation services or permanent disability benefits;
- a worker makes a request for a reconsideration and/or the acceptance of a new injury or occupational disease;
- a request is made by a person other than the worker, employer or their authorized representative;
- information is submitted to the Board such as medical reports received from a worker's doctor; or

the Board has made a decision to reopen a matter on its own initiative as part of the ongoing adjudication of a claim.

### (ef) Right to request a review

Section 96.2(2)(g) of the *Act* provides that no request may be made to a review officer under section 96.2(1) to review a decision to reopen or not to reopen a matter on an application for a reopening under section 96(2). Section 240(2) provides that a decision to reopen or not to reopen a matter on an application may be appealed directly to the Workers' Compensation Appeal Tribunal ("WCAT").

The effect of these provisions is that the preliminary or threshold question whether the grounds for a reopening on an application have been met under section 96(2)(a) and (b) may not be the subject of a review by a review officer. A party who wishes to dispute the Board's decision in this respect must appeal directly to WCAT.

**However, where a reopening consideration was undertaken on the Board's own initiative, a request for review of the decision is made to a review officer.**

~~However,~~ Once it is determined that the grounds for a reopening have been met, the Board's decision on the compensation or rehabilitation to be paid or provided as a result of the reopening may be the subject of a request for a review by a review officer under section 96.2(1). The review officer's decision may then be appealed to WCAT under section 239(1).

### PRACTICE

For any relevant PRACTICE information, readers should consult the ~~Rehabilitation and Compensation Services Division's~~ Practice Directives available on the WCB website.

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**EFFECTIVE DATE:** ~~March 18, 2003~~ January 1, 2005

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<b>AUTHORITY:</b>	ss. 96(2), (3), <i>Workers Compensation Act</i>
<b>CROSS REFERENCES:</b>	Changing Previous Decisions - General (C14-101.01), Changing Previous Decisions - Reconsiderations (C14-103.01), Changing Previous Decisions - Fraud and Misrepresentation (C14-104.01), Changing Previous Decisions - Reviews (C14-105.01)
<b>HISTORY:</b>	<b>Amendments effective January 1, 2005 to clarify reopenings on application and on own initiative and to clarify recurrence of injury.</b> <del>Subsequent to</del> Amendments effective March 18, 2003 to clarify that a reopening allows compensation or rehabilitation benefits to be "varied" and that disputes over a decision to reopen or not to reopen a matter "on application " are appealable directly to WCAT under section 240(2). New Item consequential to the <i>Workers Compensation Amendment Act (No. 2)</i> , 2002 approved effective March 3, 2003.
<b>APPLICATION:</b>	Applies to all decisions on and after <del>March 18, 2003</del> <b>January 1, 2005</b>

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**RE: Changing Previous Decisions –  
Reconsiderations**

**ITEM: C14-103.01**

### **BACKGROUND**

#### **1. Explanatory Notes**

The *Act* provides the Board with a very limited time period to reconsider previous decisions or orders. Subject to certain restrictions, the Board may only reconsider a decision or order under Part 1 of the *Act* during the period of 75 days subsequent to the decision or order being made.

#### **2. The Act**

Section 1, in part:

“**reconsider**” means to make a new decision in a matter previously decided where the new decision confirms, varies or cancels the previous decision or order

Section 96, in part:

.....

- (4) Despite subsection (1), the Board may, on its own initiative, reconsider a decision or order that the Board or an officer or employee of the Board has made under this Part.
- (5) Despite subsection (4), the Board may not reconsider a decision or order if
  - (a) more than 75 days have elapsed since that decision or order was made,
  - (b) a review has been requested in respect of that decision or order under section 96.2, or
  - (c) an appeal has been filed in respect of that decision or order under section 240.

.....



### POLICY

#### (a) Definition of reconsideration

A reconsideration occurs when the Board considers the matters addressed in a previous decision anew to determine whether the conclusions reached were valid. Where the reconsideration results in the previous decision being varied or cancelled, it constitutes a redetermination of those matters.

#### (b) The purpose of sections 96(4) and (5)

The Board's authority to reconsider previous decisions and orders is found in section 96(4) and (5) of the *Act*. These provisions result from legislative amendments that came into effect on March 3, 2003. The purpose of these amendments is to promote finality and certainty within the workers' compensation system.

The same amendments establish a right to request a review by a review officer under sections 96.2 to 96.5, where a party disagrees with a decision or order made at the initial decision-making level. It is this review, rather than the application of the Board's reconsideration authority, which is intended to be the dispute resolution mechanism for initial decisions and orders of Board officers.

It is significant that section 96(4) only authorizes the Board to reconsider a decision or order "on its own initiative". This is to be contrasted with the Board's authority to reopen a matter "on its own initiative, or on application" under section 96(2). It is also to be contrasted with section 96.5 and section 256, which authorize a review officer and the appeal tribunal, respectively, to reconsider decisions on application in certain circumstances.

The use of the words "on own initiative" in section 96(4), with no provision for "on application", and the availability of a review mechanism under sections 96.2 to 96.5, indicate that the Board is not intended to set up a formal application for reconsideration process to resolve disputes that parties may have with decisions or orders.

Rather, the Board's reconsideration authority is intended to provide a quality assurance mechanism for the Board. The Board is given a time-limited opportunity to correct, on its own initiative, any ~~errors~~ **incorrect decisions** it may have made.

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### (c) Advice to parties

Parties to a decision or order will be advised, in writing, at the time the decision or order is made, of the right to request a review of the decision or order under section 96.2. A party who approaches the Board to have the decision or order reconsidered will be reminded of the party's right to request a review under section 96.2. If the Board reconsiders a decision or order before the request for review is made, the Board will advise the parties to the decision or order of the reconsidered decision. The reconsidered decision gives rise to a new right to request a review under section 96.2.

### (d) Restrictions on reconsideration

The *Act* places a number of express restrictions on reconsidering previous decisions and orders. It is noted, in this respect, that "reconsider" means the making of the new decision and not merely the starting of the reconsideration process leading to the new decision.

- The Board may not reconsider a decision or order more than 75 days after the decision or order was made. This includes all decisions of the Board and officers and employees of the Board made prior to March 3, 2003. The 75 day period commences on the date the decision was made (not March 3, 2003 in the case of those decisions made prior to that date).
- The Board may not reconsider a decision or order if a review has been requested in respect of that decision or order under section 96.2. A request for review under section 96.2 immediately terminates the authority of the Board to reconsider a previous decision or order, even if 75 days has not passed since the decision or order was made.
- The Board may not reconsider a decision or order if an appeal has been filed in respect of that decision or order under section 240. The filing of an appeal under section 240 immediately terminates the authority of the Board to reconsider the decision or order, even if 75 days has not passed since the decision or order was made.

There are, in addition, a number of implicit restrictions on reconsidering previous decisions and orders. The Board is not authorized to reconsider decisions or findings of the following bodies:

- the former Appeal Division, which existed prior to March 3, 2003;
- the former Commissioners, who existed prior to June 3, 1991;

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- the boards of review and the Workers' Compensation Review Board, which existed prior to March 3, 2003; and
- the Board of Review, which existed prior to January 1, 1974.

Section 256 of the *Act* provides for the Workers' Compensation Appeal Tribunal to reconsider its own decisions and decisions of the former Appeal Division under certain limited conditions. The Legislature therefore "turned its mind" to the extent that former appellate decisions should be reconsidered and legislated its intent.

### (e) Grounds for reconsideration

Subject to the limitations set out above, the Board may reconsider a decision on its own initiative where:

- there is new evidence indicating that a prior decision or order was made in error;
- there has been a mistake of evidence, such as:
  - material evidence was initially overlooked, or
  - facts were mistakenly taken as established which were not supported by any evidence or by any reasonable inference from the evidence;
- there has been a policy error such as:
  - applying an applicable policy clearly incorrectly, or
  - not applying an applicable policy; or
- there has been a clear error of law, such as a failure by the Board to follow the express terms of the *Act*.

### (f) Authority of Board officers, Managers and Directors to reconsider

A Board officer may only reconsider a decision made by another Board officer where there is new evidence, a mistake of evidence, a policy error or a clear error of law.

A Manager or Director may reconsider a decision or order made by a Board officer in any of these circumstances, and may also reweigh the evidence and substitute his or her own judgment for that of the Board officer.

### (g) Correction of administrative errors

**The correction of an administrative error such as a clerical, typographical or mathematical error or an error in an agreed statement of facts does not result in a reconsideration of a previous decision. The ability to correct these types of errors, slips or omissions would not be considered a reconsideration of the**

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original decision, as it would not change the intent of the original decision made by the Board officer.

The limits on reconsiderations of previous decisions do not prevent a Board officer from issuing an addendum to correct a clerical or typographical error in a decision. This may be done where the text of the decision did not correctly reflect the Board officer's intent. An example of a clerical error might include a Board officer incorrectly typing in a decision letter \$25,000 rather than \$52,000 for a worker's earnings, but it is clear from the evidence on the claim that this was a simple typographical error.

An accidental slip or omission may occur when the decision as recorded does not clearly reflect the intention of the decision-maker. For example, a decision letter states "I do accept the degenerative changes as part of the claim", however; the remainder of the letter and the evidence on the claim clearly illustrate that the Board officer intended that the letter state "I do not accept".

This process for correcting errors, slips or omissions, however, cannot be applied to change decisions.

### **PRACTICE**

For any relevant PRACTICE information, readers should consult the ~~Rehabilitation and Compensation Services Division's~~ Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	<del>March 3, 2003</del> <b>January 1, 2005</b>
<b>AUTHORITY:</b>	ss. 96(4), (5), <i>Workers Compensation Act</i>
<b>CROSS REFERENCES:</b>	Changing Previous Decisions - General (C14-101.01), Changing Previous Decisions - Reopenings (C14-102.01), Changing Previous Decisions - Fraud and Misrepresentation (C14-104.01), Changing Previous Decisions - Reviews (C14-105.01)
<b>HISTORY:</b>	<b>Amendments effective January 1, 2005 to include policy on the correction of administrative errors.</b> New Item consequential to the <i>Workers Compensation Amendment Act (No. 2), 2002</i>
<b>APPLICATION:</b>	Applies to all decisions on and after <del>March 3, 2003</del> <b>January 1, 2005</b>

**RE: Changing Previous Decisions –  
General**

**ITEM: C14-101.01**

## **BACKGROUND**

### **3. Explanatory Notes**

The *Act* provides the following mechanisms by which the Board may change its decisions:

- reopenings;
- reconsiderations;
- reviews; and
- setting aside for fraud or misrepresentation.

More information about these mechanisms is presented in the Items C14-102.01 - C14-105.01.

### **4. The Act**

See Items C14-102.01 - C14-105.01.

## **POLICY**

~~There is no POLICY for this Item.~~

**This policy clarifies the types of decisions that do not constitute a reconsideration or a reopening of a previous decision.**

#### **(a) New matters not previously decided**

**The need to adjudicate new matters not previously decided and make decisions on these matters may occur at various points during the adjudication of a claim. The limits in the *Act* on the Board's ability to change previous decisions through a reconsideration or a reopening are not intended to restrict the Board's ability to make new decisions in accordance with the *Act* and policy that do not question previous decisions.**

**Situations in which the Board may make a new decision on a matter not previously decided may generally include, but are not limited to the following:**

- **Initial entitlement to temporary or permanent disability benefits;**

- **Acceptability of additional medical conditions identified during the adjudication of a claim or acceptability of further injury or disease that arises as a consequence of a work injury;**
- **Sections of the Act which give the Board broad discretion to make decisions regarding entitlement at various times over the course of a claim. In applying these provisions, a Board officer may consider a new matter that arises as a result of new information or a change in circumstances that occurs after a previous decision. Two examples are health care and vocational rehabilitation benefits.**
- **Health care benefit entitlement – Section 21 of the Act enables the WCB to approve health care treatment and services to aid in a worker’s recovery from the compensable injury or occupational disease. Consideration for health care benefits may occur at various points during the claim as the nature and severity of the worker’s compensable injury or occupational disease changes and/or there is a determination that additional treatments or services will assist in the worker’s recovery.**

**Decisions regarding entitlement to health care benefits made as new matters arise, such as a change in the worker’s medical condition, do not constitute a reconsideration of a previous decision. However, in any case where there is a request to retroactively change a past decision or the Board officer reconsiders a prior decision regarding health care, the restrictions on reconsideration apply.**

- **Vocational rehabilitation benefit entitlement – Consideration of entitlement to vocational rehabilitation services under section 16 may be required at various points during the claim to assist in a worker’s recovery and return to work.**

**A decision to modify, replace or discontinue a rehabilitation plan is a new decision. Any subsequent decision regarding the worker’s future entitlement to vocational rehabilitation services would also be a new decision with prospective application.**

- **A new matter may arise as a result of legislative provisions that expressly direct the WCB to make certain decisions or take certain actions at specified points in the claim. If the WCB fails to render these decisions or take these actions at the specified point, the Board officer must make the decision as soon as the error is discovered in order to fulfill the requirements of the Act. These decisions would have prospective application. For example, under section 33.1(2) of the Act, if a worker’s disability continues for ten cumulative weeks of benefits, the WCB must**

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determine the amount of average earnings of the worker based on the worker's gross earnings for the 12-month period immediately preceding the date of the injury.

### (b) Implementation of Review Division Decisions or WCAT Decisions

On a review or an appeal, the Review Division and the WCAT may make a decision that confirms, varies or cancels the decision under review or appeal. The Review Division and WCAT decisions are final and must be complied with by the Board.

Varying or canceling a decision may make invalid other decisions that are dependent upon or result from the decision under review or appeal.

The reconsideration and reopening requirements under section 96 do not limit changes to previous decisions that are required in order to fully implement decisions of the Review Division or the WCAT.

### PRACTICE

There is no PRACTICE for this Item.

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<b>EFFECTIVE DATE:</b>	<del>March 3, 2003</del> <b>January 1, 2005</b>
<b>AUTHORITY:</b>	ss. 96(2) - (7), 96.4(9), 255, <i>Workers Compensation Act</i>
<b>CROSS REFERENCES:</b>	Changing Previous Decisions - Reopenings (C14-102.01), Changing Previous Decisions - Reconsiderations (C14-103.01), Changing Previous Decisions - Fraud and Misrepresentation (C14-104.01), Changing Previous Decisions - Reviews (C14-105.01), <b>Vocational Rehabilitation – Nature and Extent of Programs and Services (C11-88.00)</b>
<b>HISTORY:</b>	<b>Amendments effective January 1, 2005 to clarify the difference between a new decision and a change in a previous decision, and to provide guidance on the implementation of Review Division and WCAT decisions.</b> New Item consequential to the <i>Workers Compensation Amendment Act (No. 2), 2002</i>
<b>APPLICATION:</b>	Applies to all decisions on and after <del>March 3, 2003</del> <b>January 1, 2005</b>

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**RE: Changing Previous Decisions –  
Reopenings**

**ITEM: C14-102.01**

### **BACKGROUND**

#### **1. Explanatory Notes**

The Board may, at any time, reopen a matter that has been previously decided by the Board or an officer or employee of the Board, if certain circumstances exist.

#### **2. The Act**

Section 96 states, in part:

.....

- (6) Despite subsection (1), any time, on its own initiative, or on application, the Board may reopen a matter that has been previously decided by the Board or an officer or employee of the Board under this Part if, since the decision was made in that matter,
  - (c) there has been a significant change in a worker's medical condition that the Board has previously decided was compensable, or
  - (d) there has been a recurrence of a worker's injury.
  
- (7) If the Board determines that the circumstances in subsection (2) justify a change in a previous decision respecting compensation or rehabilitation, the Board may make a new decision that varies the previous decision or order.

.....

### **POLICY**

#### **(a) General**

The reopening of a previous decision does not affect the application of the decision to the period prior to the significant change in the worker's medical condition or the recurrence of the worker's injury. Rather, it ~~allows compensation or rehabilitation to be varied subsequent to, and as a result of, the significant medical change or recurrence~~ **enables the Board to reopen matters previously decided and determine a worker's ongoing entitlement.** A reopening involves the adjudication of new matters.

**(b) A reopening is not a reconsideration**

A reopening is to be distinguished from a reconsideration of a previous decision.

A reconsideration occurs when the Board considers the matters addressed in a previous decision anew to determine whether the conclusions reached about these matters reached were valid. Where the reconsideration results in the previous decision being varied or cancelled, it constitutes a redetermination of those matters.

**(c) Grounds for reopening**

A decision may be reopened if, since it was made:

- there has been a significant change in a worker's medical condition that the Board has previously decided was compensable; or
- there has been a recurrence of a worker's injury.

"A significant change in a worker's medical condition that the Board has previously decided was compensable" means a change in the worker's physical or psychological condition. It does not mean a change in the Board's knowledge about the worker's medical condition.

A "significant change" would be a physical or psychological change that would, on its face, warrant consideration of a change in compensation or rehabilitation benefits or services. In relation to permanent disability benefits, a "significant change" would be a permanent change outside the range of fluctuation in condition that would normally be associated with the nature and degree of the worker's permanent disability.

A claim may be reopened for repeats of temporary disability, irrespective of whether a permanent disability award has been provided in respect of the compensable injury or disease. A claim may also be reopened for any permanent changes in the nature or degree of a worker's permanent disability.

**(d) A recurrence of injury is not a new injury**

**A recurrence of an injury may result where the original injury, which had either resolved or stabilized, occurs again without any intervening new injury. A recurrence of an injury may result in a claim being reopened for:**

- **an additional period of temporary disability benefits where no permanent disability award was previously provided in respect of the compensable injury;**
- **an additional period of temporary disability benefits where a permanent disability award was previously provided in respect of the compensable injury; and,**

- an additional permanent disability award being provided due to a change in the nature and degree of the worker's permanent disability resulting from the original work injury.

An example of a recurrence of an injury is where a worker has a compensable injury for which temporary disability benefits are paid. The injury resolves and the claim is closed, but later becomes disabling again without any intervening new injury. In these situations it is considered that the original injury has recurred. The result is that the worker may be entitled to an additional period of temporary and/or consideration for permanent disability compensation under the original claim.

A recurrence of injury that entitles a worker to request a reopening of an existing claim is to be distinguished from a new injury that entitles the worker to make a new claim.

~~“Recurrence” refers to a recurrence of the original injury without a second compensable injury.~~ For example, where a compensable injury is aggravated by a second compensable injury, the first injury has not “recurred”. Rather a new injury has occurred that will result in a new claim. The decision whether to reopen the existing claim or initiate a new claim will depend upon the evidence in each case.

**The following types of questions may assist in determining whether there is a recurrence or a new injury:**

- Have there been any intervening incidents, work-related or otherwise?
- Has there been a continuity of symptoms and/or continuity of medical treatment?
- Can the current symptoms be related to the original injury?

**(e) Reopening on application or on own initiative**

Section 96(2) sets out the two ways in which the Board may reopen a matter that has been previously decided by the Board: on its own initiative, or on application.

A request for a reopening of a previous decision will be considered on application where the worker refers specifically to section 96(2) of the *Act* or uses language substantially similar to that section. An application may be submitted to the Board in written or verbal form.

A reopening request will not be considered on application where:

- a worker makes a general request for additional wage-loss benefits, health care benefits, vocational rehabilitation services or permanent disability benefits;

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## REHABILITATION SERVICES & CLAIMS MANUAL

- a worker makes a request for a reconsideration and/or the acceptance of a new injury or occupational disease;
- a request is made by a person other than the worker, employer or their authorized representative;
- information is submitted to the Board such as medical reports received from a worker's doctor; or
- the Board has made a decision to reopen a matter on its own initiative as part of the ongoing adjudication of a claim.

### (ef) Right to request a review

Section 96.2(2)(g) of the *Act* provides that no request may be made to a review officer under section 96.2(1) to review a decision to reopen or not to reopen a matter on an application for a reopening under section 96(2). Section 240(2) provides that a decision to reopen or not to reopen a matter on an application may be appealed directly to the Workers' Compensation Appeal Tribunal ("WCAT").

The effect of these provisions is that the preliminary or threshold question whether the grounds for a reopening on an application have been met under section 96(2)(a) and (b) may not be the subject of a review by a review officer. A party who wishes to dispute the Board's decision in this respect must appeal directly to WCAT.

**However, where a reopening consideration was undertaken on the Board's own initiative, a request for review of the decision is made to a review officer.**

~~However,~~ Once it is determined that the grounds for a reopening have been met, the Board's decision on the compensation or rehabilitation to be paid or provided as a result of the reopening may be the subject of a request for a review by a review officer under section 96.2(1). The review officer's decision may then be appealed to WCAT under section 239(1).

### **PRACTICE**

For any relevant PRACTICE information, readers should consult the ~~Rehabilitation and Compensation Services Division's~~ Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	March 18, 2003 <b>January 1, 2005</b>
<b>AUTHORITY:</b>	ss. 96(2), (3), <i>Workers Compensation Act</i>
<b>CROSS REFERENCES:</b>	Changing Previous Decisions - General (C14-101.01), Changing Previous Decisions - Reconsiderations (C14-103.01), Changing Previous Decisions - Fraud and Misrepresentation (C14-104.01), Changing Previous Decisions - Reviews (C14-105.01)

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### HISTORY:

**Amendments effective January 1, 2005 to clarify recurrence of injury and to distinguish between a reopening on application and a reopening on own initiative** ~~New Item consequential to the *Workers Compensation Amendment Act (No. 2), 2002* approved effective March 3, 2003.~~

~~Subsequent a~~ **Amendments effective March 18, 2003 to clarify that a reopening allows compensation or rehabilitation benefits to be “varied” and that disputes over a decision to reopen or not to reopen a matter “on application” are appealable directly to WCAT under section 240(2).**

**New Item consequential to the *Workers Compensation Amendment Act (No. 2), 2002* approved effective March 3, 2003.**

### APPLICATION:

Applies to all decisions on and after ~~March 18, 2003~~ **January 1, 2005.**

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## REHABILITATION SERVICES & CLAIMS MANUAL

**RE: Changing Previous Decisions –  
Reconsiderations**

**ITEM: C14-103.01**

### **BACKGROUND**

#### **1. Explanatory Notes**

The *Act* provides the Board with a very limited time period to reconsider previous decisions or orders. Subject to certain restrictions, the Board may only reconsider a decision or order under Part 1 of the *Act* during the period of 75 days subsequent to the decision or order being made.

#### **2. The Act**

Section 1, in part:

“**reconsider**” means to make a new decision in a matter previously decided where the new decision confirms, varies or cancels the previous decision or order

Section 96, in part:

.....

- (8) Despite subsection (1), the Board may, on its own initiative, reconsider a decision or order that the Board or an officer or employee of the Board has made under this Part.
- (9) Despite subsection (4), the Board may not reconsider a decision or order if
  - (d) more than 75 days have elapsed since that decision or order was made,
  - (e) a review has been requested in respect of that decision or order under section 96.2, or
  - (f) an appeal has been filed in respect of that decision or order under section 240.

.....

### POLICY

#### (a) Definition of reconsideration

A reconsideration occurs when the Board considers the matters addressed in a previous decision anew to determine whether the conclusions reached were valid. Where the reconsideration results in the previous decision being varied or cancelled, it constitutes a redetermination of those matters.

#### (b) The purpose of sections 96(4) and (5)

The Board's authority to reconsider previous decisions and orders is found in section 96(4) and (5) of the *Act*. These provisions result from legislative amendments that came into effect on March 3, 2003. The purpose of these amendments is to promote finality and certainty within the workers' compensation system.

The same amendments establish a right to request a review by a review officer under sections 96.2 to 96.5, where a party disagrees with a decision or order made at the initial decision-making level. It is this review, rather than the application of the Board's reconsideration authority, which is intended to be the dispute resolution mechanism for initial decisions and orders of Board officers.

It is significant that section 96(4) only authorizes the Board to reconsider a decision or order "on its own initiative". This is to be contrasted with the Board's authority to reopen a matter "on its own initiative, or on application" under section 96(2). It is also to be contrasted with section 96.5 and section 256, which authorize a review officer and the appeal tribunal, respectively, to reconsider decisions on application in certain circumstances.

The use of the words "on own initiative" in section 96(4), with no provision for "on application", and the availability of a review mechanism under sections 96.2 to 96.5, indicate that the Board is not intended to set up a formal application for reconsideration process to resolve disputes that parties may have with decisions or orders.

Rather, the Board's reconsideration authority is intended to provide a quality assurance mechanism for the Board. The Board is given a time-limited opportunity to correct, on its own initiative, any ~~errors~~ **incorrect decisions** it may have made.

#### (c) Advice to parties

Parties to a decision or order will be advised, in writing, at the time the decision or order is made, of the right to request a review of the decision or order under section 96.2. A party who approaches the Board to have the decision or order reconsidered will be reminded of the party's right to request a review under section 96.2. If the Board reconsiders a decision or order before the request for review is made, the Board will

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advise the parties to the decision or order of the reconsidered decision. The reconsidered decision gives rise to a new right to request a review under section 96.2.

### (d) Restrictions on reconsideration

The *Act* places a number of express restrictions on reconsidering previous decisions and orders. It is noted, in this respect, that “reconsider” means the making of the new decision and not merely the starting of the reconsideration process leading to the new decision.

- The Board may not reconsider a decision or order more than 75 days after the decision or order was made. This includes all decisions of the Board and officers and employees of the Board made prior to March 3, 2003. The 75 day period commences on the date the decision was made (not March 3, 2003 in the case of those decisions made prior to that date).
- The Board may not reconsider a decision or order if a review has been requested in respect of that decision or order under section 96.2. A request for review under section 96.2 immediately terminates the authority of the Board to reconsider a previous decision or order, even if 75 days has not passed since the decision or order was made.
- The Board may not reconsider a decision or order if an appeal has been filed in respect of that decision or order under section 240. The filing of an appeal under section 240 immediately terminates the authority of the Board to reconsider the decision or order, even if 75 days has not passed since the decision or order was made.

There are, in addition, a number of implicit restrictions on reconsidering previous decisions and orders. The Board is not authorized to reconsider decisions or findings of the following bodies:

- the former Appeal Division, which existed prior to March 3, 2003;
- the former Commissioners, who existed prior to June 3, 1991;
- the boards of review and the Workers’ Compensation Review Board, which existed prior to March 3, 2003; and
- the Board of Review, which existed prior to January 1, 1974.

Section 256 of the *Act* provides for the Workers’ Compensation Appeal Tribunal to reconsider its own decisions and decisions of the former Appeal Division under certain limited conditions. The Legislature therefore “turned its mind” to the extent that former appellate decisions should be reconsidered and legislated its intent.

**(e) Grounds for reconsideration**

Subject to the limitations set out above, the Board may reconsider a decision on its own initiative where:

- there is new evidence indicating that a prior decision or order was made in error;
- there has been a mistake of evidence, such as:
  - material evidence was initially overlooked, or
  - facts were mistakenly taken as established which were not supported by any evidence or by any reasonable inference from the evidence;
- there has been a policy error such as:
  - applying an applicable policy clearly incorrectly, or
  - not applying an applicable policy; or
- there has been a clear error of law, such as a failure by the Board to follow the express terms of the *Act*.

**(f) Authority of Board officers, Managers and Directors to reconsider**

A Board officer may only reconsider a decision made by another Board officer where there is new evidence, a mistake of evidence, a policy error or a clear error of law.

A Manager or Director may reconsider a decision or order made by a Board officer in any of these circumstances, and may also reweigh the evidence and substitute his or her own judgment for that of the Board officer.

**(g) Correction of administrative errors**

**The correction of an administrative error such as a clerical, typographical or mathematical error or an error in an agreed statement of facts does not result in a reconsideration of a previous decision. The ability to correct these types of errors, slips or omissions would not be considered a reconsideration of the original decision, as it would not change the intent of the original decision made by the Board officer.**

**The limits on reconsiderations of previous decisions do not prevent a Board officer from issuing an addendum to correct a clerical or typographical error in a decision. This may be done where the text of the decision did not correctly reflect the Board officer's intent. An example of a clerical error might include a Board officer incorrectly typing in a decision letter \$25,000 rather than \$52,000 for a worker's earnings, but it is clear from the evidence on the claim that this was a simple typographical error.**

**An accidental slip or omission may occur when the decision as recorded does not clearly reflect the intention of the decision-maker. For example, a decision letter states “I do accept the degenerative changes as part of the claim”,**

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however; the remainder of the letter and the evidence on the claim clearly illustrate that the Board officer intended that the letter state “I do not accept”.

This process for correcting errors, slips or omissions, however, cannot be applied to change decisions.

### **PRACTICE**

For any relevant PRACTICE information, readers should consult the ~~Rehabilitation and Compensation Services Division's~~ Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	<del>March 3, 2003</del> <b>January 1, 2005</b>
<b>AUTHORITY:</b>	ss. 96(4), (5), <i>Workers Compensation Act</i>
<b>CROSS REFERENCES:</b>	Changing Previous Decisions - General (C14-101.01), Changing Previous Decisions - Reopenings (C14-102.01), Changing Previous Decisions - Fraud and Misrepresentation (C14-104.01), Changing Previous Decisions - Reviews (C14-105.01)
<b>HISTORY:</b>	<b>Amendments effective January 1, 2005 to include policy on the correction of administrative errors.</b> New Item consequential to the <i>Workers Compensation Amendment Act (No. 2), 2002</i>
<b>APPLICATION:</b>	<b>Applies to all decisions on and after <del>March 3, 2003</del> January 1, 2005.</b>

## Appendix B



## ASSESSMENT MANUAL

RE: Reconsiderations, Reviews and Appeals  
Reconsiderations of Decisions

ITEM: AP1-96-1

### **BACKGROUND**

#### **1. Explanatory Notes**

The *Act* provides the Board with a limited time period to reconsider previous decisions or orders. Subject to certain restrictions, the Board may only reconsider a decision or order under Part 1 of the *Act* during the period of 75 days subsequent to the decision or order being made.

#### **2. The Act**

Section 1, in part:

“reconsider” means to make a new decision in a matter previously decided where the new decision confirms, varies or cancels the previous decision or order

Section 39(6):

The Board must notify each employer of the amount of each assessment due in respect of the employer's industry and the time when it is payable. The notice may be sent by post to the employer, and is deemed to be given to the employer on the day the notice is mailed.

Section 96, in part:

- (4) Despite subsection (1), the Board may, on its own initiative, reconsider a decision or order that the Board or an officer or employee of the Board has made under this Part.
- (5) Despite subsection (4), the Board may not reconsider a decision or order if
  - (g) more than 75 days have elapsed since that decision or order was made,
  - (h) a review has been requested in respect of that decision or order under section 96.2, or
  - (i) an appeal has been filed in respect of that decision or order under section 240.

Section 221:

- (1) A document that must be served on or sent to a person under this *Act* may be
  - (a) personally served on the person,
  - (b) sent by mail to the person's last known address, or
  - (c) transmitted electronically, by facsimile transmission or otherwise, to the address or number requested by the person.
- (2) If a document is sent by mail, the document is deemed to have been received on the 8<sup>th</sup> day after it was mailed.
- (3) If a document is transmitted electronically, the document is deemed to have been received when the person transmitting the document receives an electronic acknowledgement of the transmission.

**POLICY**

**(a) Definition of reconsideration**

A reconsideration occurs when the Board considers the matters addressed in a previous decision anew to determine whether the conclusions reached were valid. Where the reconsideration results in the previous decision being varied or cancelled, it constitutes a redetermination of those matters.

Decisions that are reconsidered under section 96(4), and are therefore subject to the time limitations in section 96(5), are decisions on individual matters. Examples of such decisions include:

- the modification of an employer's assessment rate through experience rating;
- determinations regarding whether an individual is a worker, employer, independent operator or labour contractor;
- the application of a penalty for failure to remit or report as required under the *Act*; and
- the charging of claims costs when an employer is in default and an injury or occupational disease occurs to one of its workers during the period of default.

Matters of general application, on the other hand, are not intended to be covered by section 96(4) and (5). Examples of such matters include:

- the allocation of income, compensation payments, outlays, expenses, assets, liabilities, surpluses or deficits to or from an account of a class or subclass, or to

- or from a reserve of the accident fund, with the exception of section 10(8) and section 39(1)(b), (d) and (e) decisions as they relate to a specific employer or independent operator; and
- the determination of an assessment rate for a class or subclass.

Section 37 of the *Act* establishes the Board's authority to make any changes to classes and subclasses that are considered necessary and appropriate as part of the management of the classification system. The exercise of this authority, including withdrawing an employer or independent operator from a subclass and transferring the employer or independent operator to another class or subclass, does not constitute a reconsideration of a Board decision.

**On a review or an appeal, the Review Division and the WCAT may make a decision that confirms, varies or cancels the decision under review or appeal. The Review Division and WCAT decisions are final and must be complied with by the Board.**

**Varying or canceling a decision may make invalid other decisions that are dependent upon or result from the decision under review or appeal. The reconsideration requirements under sections 96(4) and 96(5) do not limit changes to previous decisions that are required in order to fully implement decisions of the Review Division or the WCAT.**

**(b) The purpose of sections 96(4) and (5)**

The Board's authority to reconsider previous decisions and orders is found in section 96(4) and (5) of the *Act*. The purpose of these amendments is to promote finality and certainty within the workers' compensation system.

Sections 96.2 to 96.5 establish a right to request a review by a review officer, where a party disagrees with a decision or order made at the initial decision-making level. It is this review, rather than the application of the Board's reconsideration authority, which is intended to be the dispute resolution mechanism for initial decisions and orders of Board officers.

The use of the words "on its own initiative" in section 96(4), and the availability of a review mechanism under sections 96.2 to 96.5, indicate that the Board is not intended to set up a formal application for reconsideration process to resolve disputes that parties may have with decisions or orders.

Rather, the Board's reconsideration authority is intended to provide a quality assurance mechanism by the Board. The Board is given a time-limited opportunity to **correct, vary or cancel**, on its own initiative, any ~~errors~~ **incorrect decisions** it may have made.

However, this does not preclude the Board from basing a reconsideration on information that may be brought forward by a worker, employer or other party to a decision or order, provided the grounds for reconsideration have been met.

### **(c) Advice to parties**

Parties to a decision or order will be advised at the time the decision or order is made of the right to request a review of the decision or order under section 96.2. The Board will take all reasonable steps to communicate a decision or order to a party. A party who requests the reconsideration of the decision or order will be reminded by the Board of the party's right to request a review under section 96.2.

If the Board reconsiders a decision or order before the request for review is made, the Board will provide the parties to the decision or order with a reconsidered decision. The reconsidered decision gives rise to a new right to request a review under section 96.2.

### **(d) Restrictions on reconsideration**

The *Act* places a number of express restrictions on reconsidering previous decisions and orders. It is noted, in this respect, that "reconsider" means the making of a new decision and not merely the starting of the reconsideration process leading to the new decision.

- The Board may not reconsider a decision or order more than 75 days after the decision or order was made. In accordance with section 221, where a decision or order has been sent by either registered or regular mail, the document is deemed to have been received on the 8<sup>th</sup> day after it was mailed. If the decision is sent electronically, the document is deemed to have been received on the date the Board receives electronic acknowledgement of receipt. One exception to section 221 applies to decisions mailed to employers in accordance with section 39(6) regarding the amount of assessment due in respect of the employer's industry and the time when it is payable. This notice is deemed to be given to the employer on the day the notice is mailed.
- The Board may not reconsider a decision or order if a review has been requested by an employer or an independent operator in respect of that decision or order under section 96.2. A request for review under section 96.2 immediately terminates the authority of the Board to reconsider a previous decision or order, even if 75 days has not passed since the decision or order was made.
- The Board may not reconsider a decision or order if an appeal has been filed in respect of that decision or order to the Workers' Compensation Appeal Tribunal under section 240. The filing of an appeal under section 240 immediately terminates the authority of the Board to reconsider the decision or order, even if 75 days has not passed since the decision or order was made.

There are, in addition, a number of implicit restrictions on reconsidering previous decisions and orders. The Board is not authorized to reconsider appellate decisions or findings of the following bodies:

- the former Appeal Division;
- the former Commissioners, who existed prior to June 3, 1991;
- the boards of review and the Workers' Compensation Review Board; and
- the Board of Review, which existed prior to January 1, 1974.

Section 256 of the *Act* provides for the Workers' Compensation Appeal Tribunal to reconsider its own decisions and decisions of the former Appeal Division under certain limited conditions.

### **(e) Grounds for reconsideration**

Subject to the limitations set out above, the Board may reconsider a decision on its own initiative where:

- there is new evidence indicating that a prior decision or order was made in error;
- there has been a mistake of evidence, such as:
  - material evidence was initially overlooked, or
  - facts were mistakenly taken as established which were not supported by any evidence or by any reasonable inference from the evidence;
- there has been a policy error such as:
  - applying an applicable policy incorrectly, or
  - not applying an applicable policy;
- there has been a clear error of law, such as a failure by the Board to follow the express terms of the *Act*; or
- one or more of the reasons for reducing or cancelling a penalty under the policy in Item AP1-47-1 are met.

### **(f) Authority of Board officers, Managers and Directors to reconsider**

A Board officer may only reconsider a decision made by another Board officer where there is new evidence, a mistake of evidence, a policy error or a clear error of law or where one or more of the reasons for reducing or cancelling a penalty are met.

A Manager or Director may reconsider a decision or order made by a Board officer in any of these circumstances, and may also reweigh the evidence and substitute his or her own judgment for that of the Board officer.

**(g) Correction of administrative errors**

**The correction of an administrative error such as a clerical, typographical or mathematical error or a slip or omission does not result in a reconsideration of a previous decision. The ability to correct these types of errors, slips or omissions would not be considered a reconsideration of the original decision, as it would not change the intent of the original decision made by the Board officer.**

**This process for correcting errors, slips or omissions, however, cannot be applied to change previous decisions.**

**PRACTICE**

For any relevant PRACTICE information, readers should consult the Assessment Department's Practice Directives available on the WCB website.

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<b>EFFECTIVE DATE:</b>	<del>March 3, 2003</del> <b>January 1, 2005</b>
<b>AUTHORITY:</b>	ss. 1, 39(6), 96(2) and 221 of the <i>Workers Compensation Act</i> .
<b>CROSS REFERENCES:</b>	See also Penalties (AP1-47-1); Fraud and Misrepresentation (AP1-96-2) in the <i>Assessment Manual</i> .
<b>HISTORY:</b>	<b>Consequential changes made in accordance with the <i>Workers Compensation Amendment Act (No. 2), 2002</i> and applied to all reconsiderations on or after March 3, 2003.</b> Replaces Policy No. 10:40:00 of the <i>Assessment Policy Manual</i> . <b>This Item results from the 2002 "editorial" consolidation of all assessment policies into the <i>Assessment Manual</i>. The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued.</b> <del>Consequential changes were subsequently made in accordance with the <i>Workers Compensation Amendment Act (No. 2), 2002</i>.</del>
<b>APPLICATION:</b>	<b>Applies to all decisions on and after January 1, 2005.</b> <del>This Item results from the 2002 "editorial" consolidation of all assessment policies into the <i>Assessment Manual</i>. The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued. To all reconsiderations on or after March 3, 2003.</del>