

WorkSafeBC

Review Division

Statistical Overview - 2019

The Review Division was created in 2002 as a result of amendments to the *Workers Compensation Act* ("Act") that made significant changes to the workers' compensation appeal process. These changes, which took effect on March 3, 2003, established two levels of review or appeal for most decisions made by the WorkSafeBC (Workers' Compensation Board) under the Act.

The first level is internal, involving an independent review of a decision by a Review Officer in the Review Division. The second level is to the external but also independent Workers' Compensation Appeal Tribunal ("WCAT").

The Review Division's mission is to effectively process reviews and to reduce disputes leading to reviews and appeals by providing:

- Clients with an opportunity to present their case;
- Participants with opportunities to understand and resolve disagreements;
- Clear, fair and consistent decisions; and
- Information and feedback about decision-making to WorkSafeBC management as part of the overall strategy to improve the quality of decisions.

This statistical overview report is issued at the end of each year. The report includes three sections:

- A. Incoming Requests for Review – Information about the volume of requests for review registered by the Review Division
- B. Completed Reviews – Information about the volume and outcome of completed reviews
- C. Completed Issues – Information about the volume and outcome of issues decided in completed reviews. A review may involve more than one issue.

This report is intended primarily for readers who are already familiar with the WorkSafeBC decision-making and the Review and Appeal processes. You may contact the Review Division directly by phone at: **604-214-5411**. Additional information about the Review Division can be found at:

<https://www.worksafebc.com/en/review-appeal>

A. Incoming Requests for Review

Reviews may be requested on decisions concerning Compensation, Prevention or Assessment matters. It is estimated that reviews are requested on only a very small percentage of decisions made by WorkSafeBC each year.

a. Volume Registered by Review Type

	2018		2019	
Compensation	13,493	95%	13,347	95%
Prevention	256	2%	285	2%
Assessments	425	3%	469	3%
Total Registered	14,174	100%	14,101	100%

Comments:

- 2019 incoming volume decreased 0.5% from 2018.
- The proportion of reviews by type was the same as last year (95% Compensation, 2% Prevention and 3% Assessments).

b. Processing Status of Requests for Review

Status		2018	2019
Outstanding balance beginning of period		4,023	3,982
Registered during period		14,174	14,101
Reactivated Reviews ¹		5	16
Less:	Abandoned	31	24
	Declined	673	645
	Discarded	459	471
	Rejected	198	194
	Withdrawn	2,011	2,111
	Completed	10,848	10,572
Outstanding balance end of period		3,982	4,082

Comments:

- The “drop-off” rate in 2019 increased to 24.9% (from 24.4% in 2018). Reviews that “drop-off” includes ones that are abandoned, declined, discarded, rejected, or withdrawn.

c. Application Extension of Time by Decision Outcome

	2018		2019	
Allowed	335	42%	389	47%
Denied	467	58%	438	53%
Total	802	100%	827	100%

Comments:

- The number of “late review” requests (filed outside of the 90 days statutory deadline) in 2019 was 3.1% higher than in 2018.
- The percentage of “allowed” extension requests this year increased to 47% (from 42% in 2018).

¹ Reviews that were previously rejected or declined and subsequently reactivated

B. Completed Reviews

a. Completed Reviews by Review Type

	2018		2019	
Compensation	10,428	96%	10,083	95%
Prevention	172	2%	203	2%
Assessments	248	2%	286	3%
Total Completed	10,848	100%	10,572	100%

Comments:

- The number of completed reviews in 2019 decreased 2.5% from 2018 (10,572 vs 10,848).

b. Review Outcomes

Each Request for Review usually relates to a specific decision letter from one of the WorkSafeBC operating divisions. As shown in the table below, one of four possible outcomes was coded to each completed review:

Outcome for Completed Reviews	2018		2019	
Cancel	93	1%	66	1%
Confirm	5,443	50%	5,171	49%
Return to Board	1,906	18%	1,885	18%
Vary	3,406	31%	3,450	32%
Total	10,848	100%	10,572	100%

Comments:

- The “confirm” rate decreased 1% from 2018 to 49% in 2019 while the “vary” rate increased 1% to 32% (from 31% in 2018).

c. Review Outcomes by Review Type – 2019

2019 Reviews	Compensation	Assessments	Prevention		Total
			Orders	Penalties	
Cancel	29 (0.3%)	11 (3.8%)	18 (19%)	8 (8%)	66 (1%)
Confirm	4,882 (48.4%)	136 (47.6%)	65 (68%)	88 (82%)	5,171 (49%)
Return to Board	1,820 (18.1%)	64 (22.4%)	1 (1%)	0 (0%)	1,885 (18%)
Vary	3,352 (33.2%)	75 (26.2%)	12 (12%)	11 (10%)	3,450 (32%)
Total	10,083	286	96	107	10,572

d. Review Outcomes by Review Type – 2018

2018 Reviews	Compensation	Assessments	Prevention		Total
			Orders	Penalties	
Cancel	64 (1%)	2 (1%)	18 (21%)	9 (10%)	93 (1%)
Confirm	5,227 (50%)	96 (39%)	51 (59%)	69 (80%)	5,443 (50%)
Return to Board	1,845 (18%)	61 (25%)	0 (0%)	0 (0%)	1,906 (18%)
Vary	3,292 (32%)	89 (36%)	17 (20%)	8 (9%)	3,406 (31%)
Total	10,428	248	86	86	10,848

e. Workers' Compensation Appeal Tribunal (WCAT) Completed Appeal Outcomes on Review Division Decisions

Outcome for Completed Appeals	2018		2019	
Cancel	29	1%	16	1%
Confirm	1,789	61%	1,404	64%
Vary	1,102	38%	768	35%
Total	2,920	100%	2,188	100%

Comments

- The WCAT “confirm” rate on appeals of Review Division decisions was 64%, an increase from 61% in 2018.

f. Average Time to Complete a Review (in days)

	2018	2019
Overall time to complete	129	127
Reviews with extensions	195	192
Reviews with no extensions	123	121

Comments:

- The average number of days to complete a review in 2019 was 127 days (versus 129 days in 2018).

g. Completed Reviews by Applicant Type

Applicant Type	2018			2019		
	#	% of type	% of total	#	% of type	% of total
Worker Reviews						
Unrepresented	3,726	44%		3,407	44%	
Represented	4,787	56%		4,264	56%	
Total	8,513		78%	7,671		73%
Employer Reviews						
Unrepresented	861	37%		992	34%	
Represented	1,474	63%		1,909	66%	
Total	2,335		22%	2,901		27%
Grand Total	10,848		100%	10,572		100%
Total represented	6,261		58%	6,173		58%

Comments

- Of the completed reviews in 2019, 73% of the reviews were initiated by workers, decrease from 78% in 2018. Of those workers, 56% had a representative, same as in 2018. Of the employer-initiated reviews, 66% of the applicants had a representative (up from 63% in 2018).
- Of all completed reviews in 2019, 58% had representatives.

C. Completed Issues

Within each decision letter reviewed, there will be one or more issues under review. The Review Division provides statistics on decisions concerning the overall reviews and on the issues under review. As shown in the table below, one of four possible outcomes is coded to each completed issue.

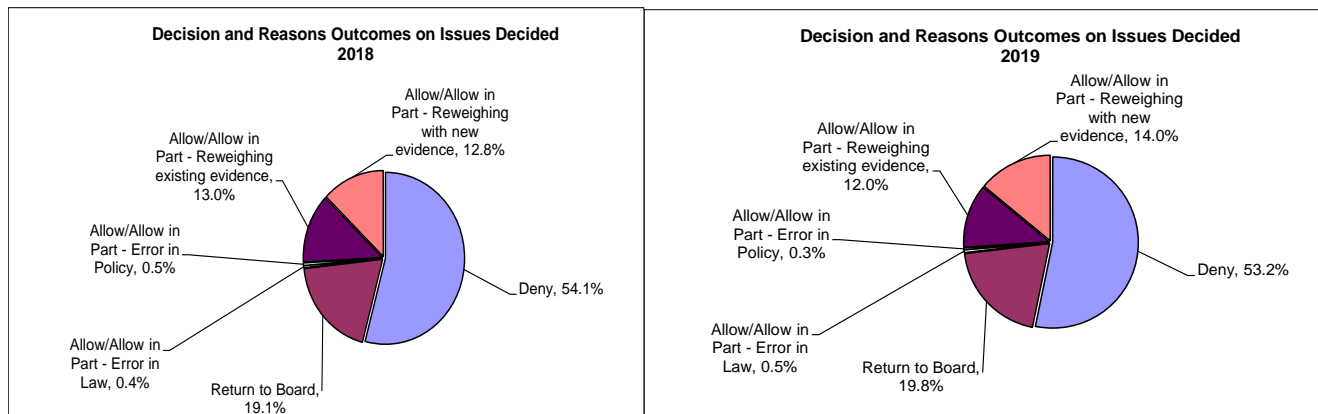
a. Issue Outcomes on Reviews

Issue Outcomes for Completed Reviews	2018		2019	
Deny	7,264	54%	7,052	53%
Allow	3,190	24%	3,223	24%
Allow in Part	415	3%	350	3%
Return to Board	2,562	19%	2,630	20%
Total	13,431	100%	13,255	100%

Comments:

- The “deny” rate decreased 1% to 53% from 54% in 2018.
- The “allow/allow in part” rate remained the same as in 2018 at 27%.

b. Issue Outcomes and Reasons on Reviews



Comments

- In 2019, the main reason for allow/allow in part was due to ‘reweighing with new evidence’ (52.0% in 2019 vs 47.9% in 2018). In 2018, the main reason was due to ‘reweighing existing evidence’ (44.7% in 2019 vs 48.6% in 2018).

c. Workers' Compensation Appeal Tribunal (WCAT) Issue Outcomes on Review Division Decisions Appealed

Issue Outcomes for Completed Appeals	2018		2019	
Deny	2,656	66%	2,204	70%
Allow	1,061	26%	742	23%
Allow in Part	312	8%	212	7%
Total	4,029	100%	3,158	100%

Comments:

- The WCAT “deny” rate increased to 70% in 2019 from 66% in 2018.

d. Reasons for Workers' Compensation Appeal Tribunal (WCAT) Allow and Allow in Part Issue Decisions

Reasons for Allow / Allow in Part	2018		2019	
Error in Law	21	1.5%	12	1.2%
Error in Policy	24	1.8%	15	1.6%
Reweigh Existing Evidence	289	21.0%	204	21.4%
Reweigh with New Evidence	1,039	75.7%	723	75.8%
Total	1,373	100.0%	954	100.0%

Comments:

- The main reason for WCAT allow/allow in part decisions continues to be due to “reweighing with new evidence”.
- The reasons due to “errors” decreased from 3.3% to 2.8% this year.

e. Top Issue Groups on Completed Reviews

Sec of the Act	Issue	2018		2019	
5	Comp. for Personal Injury	3,137	23.4%	3,049	23.0%
23	Permanent Partial Disability	2,061	15.3%	1,840	13.9%
30	Temporary Partial Disability	1,329	9.9%	1,337	10.1%
39	Relief of Costs	812	6.0%	1,073	8.1%
16	Vocational Rehabilitation	954	7.1%	747	5.6%
96	Jurisdiction of the Board	639	4.8%	671	5.1%
21	Health Care	623	4.6%	652	4.9%
6	Occupational Disease	682	5.1%	650	4.9%
29 & 30	Wage Loss Entitlement	383	2.9% ^{nt}	505	3.8%
29	Temporary Total Disability	444	3.3%	453	3.4%
7	Hearing Loss	472	3.5%	298	2.2% ^{nt}
	Other sections	1,895	13.7%	1,980	14.9%
	Total Issues	13,431	100.0%	13,255	100.0%

Note: "Other sections" represents the total of all other issue groups. Table is sorted by # of issues in 2019. nt = Not in the top 10 issues.

Comments:

- Issues are summarized in issue groups which cover a specific topic or area of decision-making.
- 95.2% of all review issues completed in 2019 concern compensation-related matters.
- The top 5 most frequently coded issues remain the same as 2018, the most coded being *Section 5 – Compensation for Personal Injury*.
- *Section 29 & 30 – Wage Loss Entitlement* made the top 10 issue groups completed this year, while *Section 7 – Hearing Loss* dropped down the list. While still making the top 10, *Section 6 – Occupational Disease* fell 2 spots down from 2018.

f. Top Issue Groups on Completed Appeals

Sec of the Act	Issue	2018		2019	
5	Comp. for Personal Injury	1,336	32.6%	998	31.1%
23	Permanent Partial Disability	702	17.1%	527	16.4%
30	Temporary Partial Disability	355	8.7%	272	8.5%
6	Occupational Disease	328	8.0%	261	8.1%
29	Temporary Total Disability	152	3.7%	168	5.2%
21	Health Care	224	5.5%	142	4.4%
96	Jurisdiction of the Board	220	5.4%	137	4.3%
96(2)	Reopenings/Reconsiderations	170	4.1%	116	3.6%
29 & 30	Wage Loss Entitlement	108	2.6%	108	3.4%
5.1	Mental Disorder	69 ^{nt}	1.7% ^{nt}	82	2.6%
7	Hearing Loss	79	1.9%	79 ^{nt}	2.5% ^{nt}
	Other sections	357	8.7%	322	10.0%
	Total Issues	4,100	100.0%	3,212	100.0%

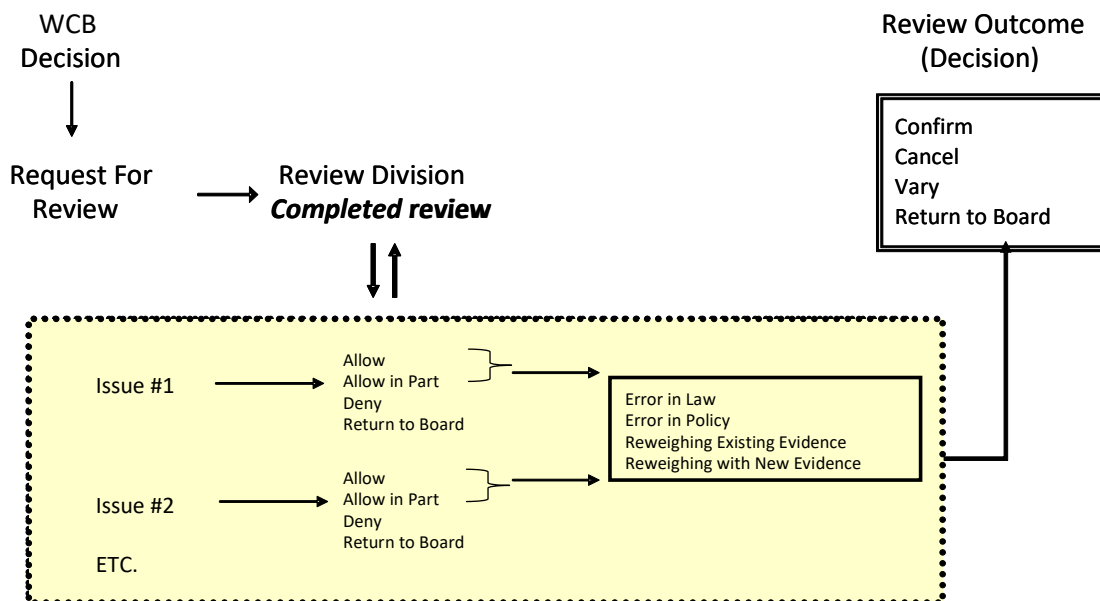
Note: "Other sections" represents the total of all other issue groups. Table is sorted by # of issues in 2019. nt = Not in the top 10 issues.

Comments:

- 97.9% of all appeal issues completed in 2019 concern compensation-related matters.
- The top 4 most frequently coded issues remain the same as 2018, the most coded being *Section 5 – Compensation for Personal Injury*.
- *Section 5.1 – Mental Disorder* made the top 10 issue groups completed this year, while *Section 7 – Hearing Loss* dropped down the list.

D. Appendix

1. Linkage of Decisions, Reviews and Issues



2. Definition of Terms

The Review Division of the Workers' Compensation Board ("Board") has authority under sections 96.2 to 96.5 of the *Workers Compensation Act* ("Act") to review decisions in specific cases made by officers in the Board's Compensation Services, Finance (Assessment decisions), and Prevention Divisions.

Pursuant to Section 96.2(3) of the *Act*, a Request for Review of compensation and assessment decisions must be filed within 90 days from the date when the Board decision. Requests for review of health and safety enforcement decisions must be filed within 45 days after the decision. Board decisions are normally communicated in a letter or other document that includes an explanation of the reasons for the decision. This letter or document should be submitted with the Request for Review form when initiating a review of the decision to the Review Division.

With each decision letter, one or more issues may be identified and each of these issues may be reviewed. Upon review, Review Officers will determine an outcome for each of the issues. Outcomes of issues may be one of the following four types:

Allow	The Review Officer disagrees with the determination made on an issue covered by a decision or order under review.
Allow in Part	The Review Officer disagrees in part with the determination made on an issue covered by a decision or order under review.
Deny	The Review Officer agrees with the determination made on an issue covered by a decision or order under review.
Return to Board	A referral of a decision or order back to the Compensation Services, Finance or Prevention Division of the Board so that the Division may make a further determination on one or more issues.

For each issue with the outcome of allow or allow in part, a reason must be provided for why. Reasons provided can be one or more of the following:

Error in law	The decision was inconsistent with the <i>Act</i> , a regulation under the <i>Act</i> , or some other law or regulation.
Error in policy	The decision was inconsistent with the published policy of the Board.
Reweighing existing evidence	The decision was changed because the Review Officer reached a different conclusion on the same evidence that was before the initial decision maker.
Reweighing with new evidence	The decision was changed because the Review Officer reached a different conclusion as a result of significant new evidence that was not before the initial decision maker.

Although each review may deal with one or more issues, an outcome for the whole review must be stated using the terms set out in Section 96.4(8)(a) of the *Act*. Outcomes on each review may be one of the following:

Confirm	The Review Officer agrees with the determinations made on every issue covered by a decision or order under review, though not necessarily with the reasons for those determinations.
Cancel	The Review Officer disagrees with the determinations made on every issue covered by a decision or order under review and determines that the decision should be withdrawn without a new decision being substituted.
Return to Board	A referral of a decision or order back to the Compensation Services, Finance or Prevention Division of the Board so that the Division may make a further determination on one or more issues.
Vary	Any decision by a Review Officer other than one that confirms or cancels a decision or order. This covers situations where the Review Officer (a) agrees with the determination made on one or more, but not all, the issues covered by a decision or order under review, or (b) disagrees with the determinations on all issues, and decides to substitute a new decision or order.