



Second Injury and Enhancement Fund

Tip Sheet

Workplace Safety and Insurance Board (WSIB) and Second Injury and Enhancement Fund Appeals

What is a Second Injury and Enhancement Fund (SIEF)?

The WSIB established SIEF to provide financial relief to employers if a worker has a pre-existing medical condition(s) that caused or contributed to the workplace accident, or if the disablement period resulting from a workplace accident becomes prolonged or enhanced due to the pre-existing medical condition(s). The intent of SIEF is to encourage employers to hire workers with pre-existing medical conditions.

An employer requesting SIEF relief or appealing a WSIB SIEF decision, means that the employer is requesting that all or part of the costs associated with a worker's WSIB claim (for example, loss of earnings (LOE) or health-care benefits) be transferred from the employer to the SIEF. If the relevant criteria are met, employers are legally entitled to SIEF relief.

Impact of a Successful SIEF Decision on a Worker's WSIB Benefits

Generally speaking, a successful SIEF decision does not impact a worker's WSIB benefits. For this reason, ONA does not provide WSIB representation on SIEF appeals, as noted in ONA's WSIB representation criteria.

However, workers are not entitled to WSIB benefits where the WSIB determines that clinical evidence demonstrates that the significance of a worker's pre-existing medical condition(s) overwhelms the impact of the work-related injury. Such a determination is usually made in a separate WSIB decision, independent of the SIEF decision, and is appealable. If you receive any adverse decisions from the WSIB concerning your entitlement to WSIB benefits, please contact ONA's WSIB intake for assistance as soon as possible by calling 1-800-387-5580, ext. 7721, or emailing WSIBintake@ona.org.

Participating in a SIEF Appeal

According to ONA's WSIB representation criteria, ONA does not provide WSIB representation on SIEF appeals. The following information may assist you should you decide to participate in a SIEF appeal on your own.

Although a successful SIEF decision generally does not impact a worker's WSIB benefits, you are still encouraged to participate in the SIEF appeal process. This will provide you with an opportunity to review your WSIB claim file, particularly any health care information

that it contains, and any submissions the employer has already made requesting SIEF relief. You are encouraged to review the employer's submissions to ensure that the employer's account of your workplace accident history and medical conditions are accurate. If there are factual errors, you should raise this with the WSIB in writing.

Worker Participant Form

When an employer informs the WSIB that they intend to appeal a decision, the WSIB sends the worker, or their representative, the entire WSIB claim file, which includes a Worker Participant Form. This form notifies the WSIB whether or not you intend to participate in the appeal process. You must complete and submit the form to the WSIB by the specified deadline.

If you do not participate in the SIEF appeal, the WSIB will not involve you or your representative in the SIEF appeals process, but will mail a copy of the final decision to you or your representative.

Respondent Form

After the employer has submitted an Intent to Object form (ITO) for a SIEF decision, they have an infinite amount of time to file an Appeal Readiness Form (ARF) to proceed. When the employer does submit the ARF and you have chosen to participate in the objection process, WSIB will ask you to complete a Respondent Form by the specified deadline on the enclosing letter.

Objecting to the Disclosure of Specified Health Care Information to the Employer

Employers are legally entitled to receive all relevant health care information in a worker's WSIB claim file. However, they must keep this information confidential and can only use it for the purposes of a WSIB appeal.

The WSIB provides workers with an opportunity to review, and object to the release of, specified health care information contained in their WSIB claim files, before it is disclosed to the employer. When an employer informs the WSIB that it intends to appeal a decision, the WSIB sends the worker, or their representative, the entire WSIB claim file, which includes an Objection to Release of Health Care Information form. Please note that this form must be submitted to the WSIB by the specified deadline.

You are encouraged to review all of the health care information contained in your WSIB claim file to determine whether you object to its disclosure to the employer. This is a worthwhile exercise if you want to ensure only relevant health care information is disclosed to the employer. For example, health care information about a worker's non-work-related broken nose injury that had resolved many years before the workplace accident would likely be irrelevant in a WSIB appeal about a worker's work-related leg injury.

Other examples of irrelevant health care information may include sexual health care information or the health care information of family members, which is information often found in a family physician's clinical notes.

Completing the Objection to the Release of Health Care Information Form

Once you have carefully reviewed your entire WSIB claim file, complete the Objection to Release of Health Care Information Form and send it to the WSIB by the specified deadline on the enclosing letter.

If you do not object to the release of health care information, complete **part A** of the form. If there is **irrelevant** health care information in your WSIB claim file and you object to this information being released to your employer, then complete **part B** of the form.

In your description of the health care information that you object to being disclosed, do not include the content of the health care information. For example, instead of stating “information regarding my June 12, 2018 gallbladder surgery is irrelevant and should not be disclosed,” state “medical records from St. Joseph’s dated June 12, 2018 are irrelevant to the issues on this appeal.” You may find it easier to make a copy of the pages that contain irrelevant health care information and redact them with a black marker and attach those pages to the objection form to be sent to the WSIB.

You can conveniently upload your completed forms on the WSIB’s website at <https://www.wsib.ca/en/upload> or submit them by fax to 416-344-4684 or 1-888-313-7373.

If you do not complete and submit the Objection to Release of Health Care Information form by the specified deadline, the WSIB will release your entire claim file to the employer including, all of the health care information in it.

If you still have further questions, please contact ONA’s WSIB intake for assistance by calling 1-800-387-5580, ext. 7721, or emailing WSIBintake@ona.org.

WSIB Procedural Steps in a SIEF Appeal

Employer submits ITO Form

- WSIB conducts reconsideration and decision remains unchanged



Worker receives the following documents:

- Worker Participant Form (must be completed within 30 days)
- Objection to release of health care information form (specific deadline in letter)
- WSIB claim file



WSIB claim file is released to employer along with ARF

- No deadline to complete ARF, can happen at any time
- Employer may review the claim file and decide not to proceed with appeal, or they may use the information to request SIEF



Employer completes ARF to proceed with appeal



Worker receives the following documents:

- Respondent Form (specific deadline outlined in letter)
- Objection to Release of Health Care Information form (specific deadline outlined in letter)
- WSIB claim file updates since the employer submitted the ITO form



WSIB releases any updates to the WSIB claim file since the employer submitted the ITO form



Hearing at WSIB Appeals Services Division (oral or written)



Hearing at Workplace Safety and Insurance Appeals Tribunal (WSIAT) (oral or written)