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**POLICY NUMBER: POL-48**

**Chapter:  
GENERAL**

**Subject:  
INTERNAL RECONSIDERATION**

**Effective Date:  
February 18, 1999**

**Last Update:  
January 1, 2014**

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**REFERENCE:**

*Workers Compensation Act R.S.P.E.I. 1988, Cap. W-7.1, Sections 26, 29, 32, 56, 56.1.*

*Workers Compensation Act Appeal Regulations, 1988, Section 1.*

*Workers Compensation Board Policy, POL-88, Workers Compensation Appeal Tribunal Decision Implementation.*

*Workers Compensation Board Policy, POL-83, New Evidence.*

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**DEFINITION:**

In this policy:

“Applicant” means a person with a direct interest who has requested an internal reconsideration of a decision.

“Person with a direct interest” means

- a) for employer assessment decisions:
    - the employer against whom the assessment is levied;
    - the Workers Compensation Board.
  - b) for worker claim decisions:
    - the worker;
    - dependants of the deceased worker;
    - the accident employer, if it is determined by the Workers Compensation Board that the accident employer has a direct interest in the matter;
    - the Workers Compensation Board.
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**POLICY:**

1. Internal reconsideration is an internal review process used when a person with a direct interest disagrees with a decision of the Workers Compensation Board.
2. A request for internal reconsideration by a person with a direct interest must be made within 90 days from the date of notification of the decision. The date of notification is the 7<sup>th</sup> calendar day following the date of the decision. Decisions rendered before April 1, 2002 are not subject to the 90 day time limit.
3. To make a request for internal reconsideration, a person with a direct interest should submit the **Request For Internal Reconsideration (IR-01)** form, and clearly identify the issue(s) in dispute.

Any materials and submissions, arguments, or reasons must be submitted in writing with the **Request For Internal Reconsideration (IR-01)** form.

**Conflict Of Interest**

4. A conflict of interest situation may exist where the Internal Reconsideration Officer has previously rendered a decision on the issue(s) in dispute or where a person with a direct interest:
  - is a relative of the Internal Reconsideration Officer;
  - has personal contact with the Internal Reconsideration Officer; or
  - is a co-worker or a member of the Board of Directors for the Workers Compensation Board.
5. Where a person with a direct interest alleges a conflict of interest, that person must provide the reasons, in writing, to the Workers Compensation Board.

Where the Internal Reconsideration Officer believes there is a conflict of interest, he/she must provide the reasons to the Director responsible for internal reconsideration.

Where the Workers Compensation Board confirms there is a conflict of interest, the Workers Compensation Board will assign an alternate Internal Reconsideration Officer, who is not in a conflict situation, to review the decision.

**Initial Review**

6. Upon receipt of a request for internal reconsideration, the Internal Reconsideration Officer will complete a preliminary review to ensure all of the following requirements are met:
- the applicant is a person with a direct interest;
  - the request for reconsideration was made within the applicable time frame;
  - the Workers Compensation Board has not previously rendered a final decision on the issue(s) in dispute;
  - the Workers Compensation Appeal Tribunal has not previously rendered a decision on the issue(s) in dispute;
  - there is no new evidence on file relevant to the issue(s) in dispute since the date of the decision under review (see policy POL-83, New Evidence);
  - a written decision with respect to the issue(s) in dispute is on the file;
  - there is no ongoing adjudication regarding the issue(s) in dispute.

**Request Meets Review Requirements**

7. Where the Internal Reconsideration Officer determines the request meets the requirements for review, the Internal Reconsideration Officer will notify the applicant in writing of the Internal Reconsideration Officer's understanding of the issue(s) in dispute.

The applicant has 30 days to notify the Internal Reconsideration Officer that the issue(s) in dispute identified by the Internal Reconsideration Officer is incorrect. If the applicant does not respond, the issue(s) in dispute will be deemed to be as identified by the Internal Reconsideration Officer.

8. The Internal Reconsideration Officer will determine whether there are other person(s) with a direct interest related to the internal reconsideration request.
9. The Internal Reconsideration Officer will notify the other person(s) with a direct interest in writing of the Internal Reconsideration Officer's understanding of the issue(s) in dispute.

To participate in the internal reconsideration process, the person(s) with a direct interest must provide a written submission with respect to the applicant's issue(s) in dispute to the Workers Compensation Board within 30 days of the date of the

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accompanying letter.

10. If a written submission is received from a person(s) with a direct interest, the Internal Reconsideration Officer will provide a copy of the submission to the applicant. This will conclude the submission process.
11. If the Employer is inactive, pursuant to the records of the Workers Compensation Board, the employer will not be considered a person with a direct interest and will not receive communication from the Internal Reconsideration Officer.
12. If an extension of time for written submissions is requested, the Internal Reconsideration Officer will consider the request on a case by case basis.

**Request Does Not Meet Review Requirements**

13. Where the Internal Reconsideration Officer determines the request does not meet the requirements for review, the Internal Reconsideration Officer will advise the applicant that the request does not meet the requirements for review and provide the reasons for that decision.

**Decisions**

14. The Internal Reconsideration Officer will conduct a paper file review. However, the Internal Reconsideration Officer has the discretion to discuss the file with the person(s) with a direct interest.
15. The Internal Reconsideration Officer will provide the final decision to the applicant within 90 days from the date of receiving the reconsideration request unless there are extenuating circumstances.
16. The Internal Reconsideration Officer will provide a written decision to the applicant with a copy to any person with as direct interest in the matter.
17. The Internal Reconsideration Officer is bound by the *Workers Compensation Act* and Workers Compensation Board policy.
18. The Internal Reconsideration Officer's decision is the final decision of the Workers Compensation Board for the issue that has been reconsidered.

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**Other**

19. The Workers Compensation Board will not compensate a person(s) with a direct interest for lost wages, travel costs, legal fees, or other costs associated with the internal reconsideration process.
  20. Requests for an appeal of the decision of the Internal Reconsideration Officer must be made to the Workers Compensation Appeal Tribunal within thirty (30) days of the decision.
  21. On application by a person with a direct interest in a decision of the Internal Reconsideration Officer, the Workers Compensation Appeal Tribunal may, by order, extend the time for appealing (30 days) on such terms as it considers appropriate.
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**HISTORY:**

January 1, 2014 - Amended to reflect the revisions made to the *Workers Compensation Act* that became effective January 1, 2014.

October 24, 2013 - Amended the definition of person with a direct interest and made other amendments to provide clarity with respect to the internal reconsideration process.

December 16, 2010 - The policy was updated as a result of the 60 month policy review process. The changes include providing guidelines related to conflict of interest situations, providing more guidance to assist applicants with their submissions to internal reconsideration, and removal of the option of conducting a hearing.

June 23, 2005 - Modified to clarify that reconsideration will normally be conducted by a file review without a hearing.

November 27, 2002 - Modified to incorporate the reconsideration of decisions affecting employers as well as workers. Moved from the Client Services Division (POL04-14) to the Executive Division (POL06-01) and re-numbered. Replaces Employer Services Division policy - Internal Reconsideration (POL02-22).

March 28, 2002 - Policy revised to incorporate changes required as a result of Workers Compensation Act amendments (Bill 15) to be proclaimed April 1, 2002.

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June 21, 2001 - Replaces Internal Reconsideration policy (IR-01) dated November 12, 1998 and approved by the Board of Directors on February 18, 1999.

Board of Directors Approval Date: February 18, 1999