

POLICY NUMBER: POL-68

**Chapter:
CLAIMS**

**Subject:
WEIGHING OF EVIDENCE**

**Effective Date:
October 25, 2001**

**Last Update:
August 9, 2018**

PURPOSE:

The purpose of this policy is to explain how the Workers Compensation Board assesses and weighs evidence in decision making.

REFERENCE:

Workers Compensation Act R.S.P.E.I.1988, Cap. W-7.1, Sections 6, 17, 56(2).
Workers Compensation Board Policy, POL-62, Benefit of Doubt.
Workers Compensation Board Policy, POL-64, Health Care Providers.

DEFINITION:

In this policy:

“Medical information” means information provided by a health care provider that is related to the medical condition and treatment of a worker.

“Objective medical information” means information or evidence that can be quantified or measured and is usually presented through documentation including but not limited to clinical notes, physical examination, functional assessment, psychological assessment, consultations, hospital records, admission and discharge summaries, notes on operations, pathologies and lab test reports, and reports on special tests and diagnostic procedures.

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“Subjective medical information” means opinions that are not based on information that can be quantified or measured. These opinions are based on intuitions or impressions of a health care provider(s) and are usually presented through symptoms described by the worker that are not supported by objective medical information.

POLICY:

1. The decisions of the Workers Compensation Board are made in accordance with the real merits and justice of the case and the Workers Compensation Board is not bound to follow strict legal precedent.

In determining the merits and justice of each case, the Workers Compensation Board must give consideration to:

- all relevant information relating to the case in order to establish the facts and circumstances;
 - relevant provisions of the *Workers Compensation Act* and Regulations; and
 - relevant Workers Compensation Board policies.
2. When making claim related decisions, the Workers Compensation Board will examine the evidence to determine whether it is sufficiently complete and reliable to allow a decision to be made. If the Workers Compensation Board determines more information is required to make a decision, the Workers Compensation Board will work with the worker, employer, health care providers and third parties, if applicable, to obtain the necessary information.

The Workers Compensation Board will gather, review, analyse and weigh all relevant evidence as part of the decision making process and will make judgements about the nature, credibility and quality of the information to determine the weight of evidence on either side of the issue. The Workers Compensation Board will give greater weight to evidence that is factual and objective when making a decision.

3. The Workers Compensation Board will assess and weigh all relevant evidence and make decisions based on a balance of probabilities - a degree of proof which is more probable than not.
 4. An issue will be resolved in favour of a person claiming compensation if the Workers Compensation Board concludes that the weight of the evidence supports this.
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5. An issue will be resolved against a person claiming compensation if the Workers Compensation Board concludes that the weight of the evidence supports this.
6. If the Workers Compensation Board concludes the evidence for or against an issue is approximately equal in weight, the issue will be resolved in favour of the person claiming compensation as outlined in Workers Compensation Board policy, POL-62, “Benefit of Doubt”.

Medical Information

7. When making claim-related decisions, the Workers Compensation Board will consider the medical information provided by health care providers, as outlined in Workers Compensation Board policy, POL-64, “Health Care Providers”.

The Workers Compensation Board will review the medical information presented by the health care providers and consider the following:

- whether the medical information can reasonably relate the injury or symptoms to a workplace accident;
 - whether the workplace accident is of sufficient degree and duration to result in the reported symptoms or injury;
 - whether non-work related factors contributed to the injury or symptoms and if so, whether they are the dominant cause of the injury or symptoms;
 - whether a need for time off work, related to the injury, is documented;
 - whether the medical information is evidence-based and consistent with relevant medical literature and/or disability guidelines; and
 - whether there are other determinations necessary to be able to make a decision.
8. Medical information is an important component of the evidence to consider when making claim-related decisions. When weighing evidence, the Workers Compensation Board finds objective medical information to be more persuasive than subjective medical information. Therefore, the Workers Compensation Board will give greater weight to objective medical information in the decision making process.
 9. Where there is conflicting medical information on a claim, the Workers Compensation Board will analyse the information objectively, using the following criteria:

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- the expertise or degree of specialization of the health care provider giving the opinion;
 - the relevance of the clinical expertise of the health care provider giving the opinion;
 - the accuracy and source of the information relied upon by the health care provider;
 - objective versus subjective medical information;
 - the timeliness and comprehensiveness of the opinion;
 - the relevance of any research referenced by the health care provider; and
 - any issues of bias or lack of objectivity.
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HISTORY:

August 9, 2018 – Non-substantive changes to definitions.

July 28, 2016 - Amended to clarify how the Workers Compensation Board assesses and weighs evidence to make decisions on claims, and expand on the type of medical information considered in decision making.

September 19, 2011 - Amended to clarify that when weighing the evidence, the Workers Compensation Board will give greater weight to objective medical information in the decision-making process. Also incorporated information from the rescinded policy, POL-115, “Medical Information” into this policy.

December 14, 2006 - The policy was reviewed as a result of the 60 month policy review process.

Board of Directors Approval Date: October 25, 2001