



Annual Report 2018/2019

Contact

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Message from Honourable Jason Copping Minister of Labour and Immigration



As Minister of Labour and Immigration, I am committed to ensuring employers and workers have the tools to navigate challenges as they engage with the workers' compensation system and have support to appeal and question decisions.

The Fair Practices Office was established in December 2018 and has worked diligently to identify the resources and services Albertans need most from them. It works independently of government and other organizations in the workers' compensation system to provide additional support for employers, injured workers and their dependants. The office's priority is providing assistance, advice and advocacy for those who are looking for options or need assistance appealing decisions.

This work is essential to ensure fair compensation, meaningful rehabilitation for injured workers and a sustainable and affordable compensation system.

The 2018/2019 Annual Report reflects the steps that have been taken to make fair compensation practices a priority in our province. Together, we are continually reviewing and strengthening the workers' compensation system in Alberta and helping to build a system that meets the needs of working Albertans.

[Original signed by]

Jason Copping
Minister of Labour and Immigration

Message from the Fair Practices Commissioner



The Fair Practices Office (FPO) opened its doors in Calgary and Edmonton in December 2018 and immediately began providing independent (and free¹) advice and advocacy services to employers, workers and their dependants engaged in workers' compensation appeal processes. The FPO also successfully launched services to help employers and workers navigate the workers' compensation system; assess the fairness of the system and breaches of the Workers' Compensation Board's (WCB) Code of Conduct; and to evaluate trends and opportunities for improvement within the workers' compensation system. Highlights include:

- developing necessary FPO procedures and policies to ensure transparency and consistency of services;
- setting up the Navigate the System Branch (NSB) and handling 1,078 client intakes;
- supporting employers, workers and their dependants, with appearances at 175 hearings² during the reporting period; and
- commencing work of the Fairness Review Branch (FRB), opening 85 cases, resolving 41 issues on 29 separate cases, with full uptake by system partners of the remedies recommended by the FRB.

Looking ahead, detailed metrics are being developed to show how the FPO is addressing client needs while assessing and adding value to the workers' compensation system.

Thanks to experienced and passionate staff, the FPO hit the ground running when it opened its doors in December 2018. With a strong and enduring commitment to delivering high quality independent services for employers, workers and their dependants, the FPO also embraces continuous learning and performance improvement.

[Original signed by]

Harold Robinson, LLB
Fair Practices Commissioner

¹ The costs of the FPO's services are reimbursed quarterly to the Crown by the Workers' Compensation Board from its Accident Fund.

² 175 of 221 hearings (in-person or teleconferenced) were supported by FPO advisors, with 73 Dispute Resolution and Decision Review Body (DRDRB) and 102 Appeals Commission (AC) hearings respectively.

Overview

The FPO was established following a review of the workers' compensation system in 2017. In essence, that review³ found that most compensation claims are dealt within a two-week period and that the system, on the whole, is working very well. However, as in most things, improvements could be made.

One improvement was to create a separate agency—the FPO—to provide an independent platform for the work of appeal advisors, system navigators, and for fairness and system reviews. It was also critical to ensure that these services continue to be offered without any additional costs to users, or to the Government of Alberta for that matter. This was done by offsetting all government appropriations through legislated quarterly draws from the WCB Accident Fund.

The FPO's services are delivered by two office locations, with 54 full-time positions across four branches: the Navigate the System Branch (NSB), the Worker Appeals Advisor Branch (WAAB), the Employer Appeals Advisor Branch (EAAB), and the Fairness Review Branch (FRB).

Critically, the FPO's business plan⁴ projects our vision for the workers' compensation system, priorities, and other matters that can be measured by our stakeholders.

*Our **vision** of the ideal workers' compensation system is one where decision-makers recognize how their decisions and processes affect the health and well-being of workers, their dependants, and employers, and whenever possible, actively work to reduce any negative impacts.*

Priorities

- 1. The FPO has the people, resources and procedures required to deliver excellent programs and services.*
- 2. Helping to make the workers' compensation system easier to navigate for injured workers, their dependants, and employers.*
- 3. Ensuring injured workers, their dependants and employers have independent FPO appeal advisors who continue to provide excellent help with their appeals at no additional cost.*
- 4. Conducting an ongoing review of the workers' compensation system's decision-making processes and identifying mechanisms to improve fairness of those processes.*

³ See [Working Together, Report and Recommendation of the Alberta Workers' Compensation Board Review Panel, June 2017](#)

⁴ See the FPO's website for a copy of the Business Plan, www.fpoalberta.ca

Reporting Period at a Glance

Organizational Development

A central focus has been preparing the FPO's facilities, resources and operational procedures and policies. Because several staff transferred from WCB or other government ministries and agencies, the FPO workforce have been adapting to new processes, technology and a different organizational culture.

Financial Overview

The FPO's budget was \$3.47 million for the fiscal year ending March 31, 2019. Actual expenditures were \$2.518 million, for a variance of \$952,000⁵.

Roles, Uptake and Stories

Navigate the System Branch (NSB)

Inquiries flow through the NSB which assesses client needs before internal branch referrals are made. NSB also refers injured workers to external agencies⁶ to help meet their various needs, such as financial, housing, medical services, employment related services and other supports. The majority of these referrals are for interim financial support.

NSB statistics reveal that client inquiries and complaints averaged 270 per month, and most issues involved WCB. In fact, 97% of issues are related to the WCB, while less than 2% are related to the AC and fewer than 1% are related to the MPO.

NSB Client Story

The worker had been receiving Income Support (IS) while her appeal was pending. She expressed concerns about her low income and requested a review to determine if she was being paid appropriately based on her illness/injury. The FPO worked with the client to ensure receipt of all benefits to which she was entitled, verifying documentation to substantiate her claim, including her IS budget. As a result, FPO staff realized that the worker had been coded incorrectly by the IS Officer, resulting in her not receiving all eligible benefits. There was also no medical information on file with IS, and no repayment agreement - legal requirements for IS.

⁵ [See Labour Annual Report 2018/2019](#)

⁶ Data for December 3, 2018 – March 31, 2019

The FPO contacted IS to discuss the issue. Upon review of the documentation the IS supervisor agreed there was a classification error, and adjusted the client's budget to add her medical coverage. The FPO staff also recommended other service options to the client, including a referral to the Mustard Seed Wellness Centre for physiotherapy and chiropractic treatment.

The client was appreciative for the thorough review of her file, together with the help and direction she received.

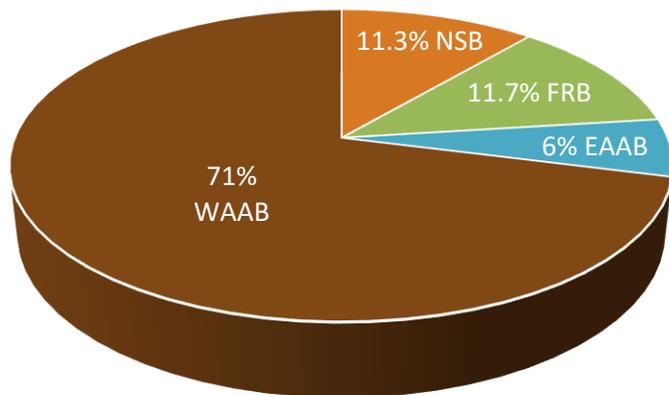
Worker Appeal Advisor Branch (WAAB)

With 29 full-time staff allocated to⁷ the WAAB team, it is the largest branch within the FPO. WAAB helps workers and their dependants through WCB and the Appeals Commission for Alberta Workers' Compensation (AC) appeals processes, including appearing for workers and their dependants before the Dispute Resolution and Decision Review Board (DRDRB) and the AC.

On average, WAAB received 201 cases per month through the December 3, 2018 to March 31, 2019 reporting period.

WAAB staff research the grounds for appeal and keep their clients informed of opportunities to resolve matters informally whenever possible. However, when informal resolution is not possible, WAAB staff represent clients at hearings. All of this is done free of charge.

Case Assignment by Branch



⁷ WAAB is currently dealing with a staffing shortage, with 17 positions in Edmonton and 12 in Calgary. There is a 58.3% staffing capacity rate for Calgary's WAAB team, as of August 13, 2019. The FPO is working with Labour and Immigration to address the staff shortage.

WAAB Client Stories

"Time-barred" Status Reversal through Case Conference

A focus of WAAB is to attempt to resolve issues without the need for a formal appeal. For this worker, WCB informed him that he was "time-barred" from appealing the denial of his claim, since it was beyond the one-year time limit.

The Appeals Advisor arranged a meeting with the WCB supervisor and presented information from the client's earlier claim with a similar injury, which was accepted.

This new evidence persuaded the supervisor to waive the time limitation, and it was enough proof for WCB to accept the claim without the need for a formal appeal.

Hearing and Informal Resolution: Zero-based Earnings Result

A worker suffered a severe head injury in 1994. The worker has since struggled greatly. Limitations from the injury include a lack of mental alertness, light and noise sensitivities, ongoing medication use and fatigue.

WCB identified alternative work they thought would be suitable, given the worker's injuries. The worker's future WCB entitlements were to be based on this position.

A Worker Appeals Advisors helped the worker appeal the suitability of the WCB selected position to the AC. The AC agreed with the Appeals Advisor's submissions and sent the claim back to the WCB to re-adjudicate.

Our Appeals Advisor asked that WCB consider a "zero-based earnings loss" benefits, which would provide a benefit equivalent to full disability payments.

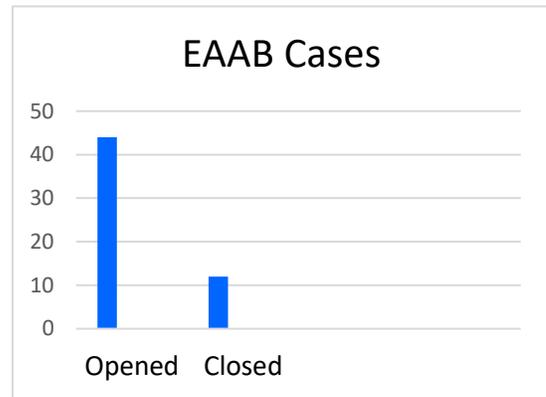
After a period of negotiations, WCB agreed to provide the full benefit.

This is a major success for the worker and his family, who now look forward to ongoing support from WCB.

Employer Appeals Advisor Branch (EAAB)

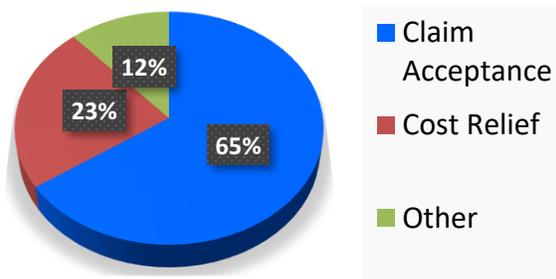
EAAB is a new service that provides employers with appeals advisory services, similar to WAAB. EAAB services are offered at no extra charge to employers.

EAAB made positive strides during the reporting period, closing nearly 30% of the cases assigned to it. By providing education and advice, EAAB staff have been able to resolve many issues directly with employers, preventing a formal appeal.



“It is really great having support for employers, and experts in WCB legislation!”
- Employer

EAAB Issues



The most common issues reported by employers are the acceptance of a worker’s claim or seeking cost relief (i.e. reduction in the employer premium). Other employer issues include disagreement with the employer’s industry classification, disputes involving entitlement or payment changes, and undue hardship from costs associated with the obligation to reinstate an injured worker.

EAAB Client Story

An employer disagreed that the worker’s psychological injury was caused by the work-related event. They asked EAAB to help them appeal WCB’s initial findings. The Employer’s Advisor reviewed the file, and made submissions for the employer. The result was that the employer was granted full cost relief for the psychological injury.

Fairness Review Branch (FRB)

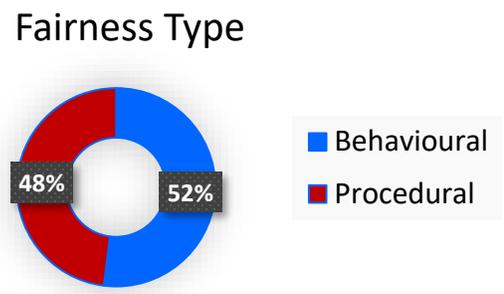
The FRB provides an ombudsman-style review function specific to the workers’ compensation system. FRB’s complaint review process is impartial and evidence-based. After reviewing the evidence, the Fairness Review Officer (FRO) determines if an issue of unfairness was found. If so, the FRO informs the parties and works with the respective system partner on the implementation of an appropriate remedy to address the identified issue of unfairness. If no issue of unfairness is found, the fairness review is closed. The complainant may be referred to other services, if appropriate.

Fairness reviews consider two main types of fairness - *procedural fairness* (how a decision was made), and *behavioural fairness* (how a complainant was treated during the decision).

Some common issues of complaint include the effectiveness or timeliness of communicating the decision, or delay in implementing the decision.

Any fairness review case may result in the review of multiple issues, both behavioural and procedural, and the issues may be with multiple system partners. It is also possible for issues to arise during the course of the review which were not identified initially by the complainant.

For the 2018/2019 fiscal year, 85 cases were opened. Of these, 29 cases were closed by March 31, 2019, which resolved 41 issues.



FRB Client Stories

Change of Case Manager

The complainant reported that her WCB Case Manager was rude to her, and had inappropriately used and disclosed the medical information of another worker on her claim. She also complained that she had difficulties reaching a WCB supervisor to raise her concerns.

Because of FRB’s intervention, the client requested and later received both a new Case Manager and a new supervisor for her claim.

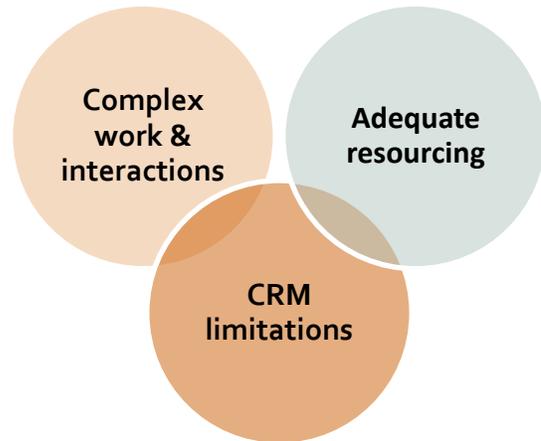
Economic Loss Payment and Letter of Support from WCB

A concern was received by an injured worker who complained that he was not referred to programs and services available outside the WCB’s jurisdiction until just prior to his 65th birthday. Upon review of the file and following collaboration with WAAB and WCB, the worker was connected to both the Case Manager’s supervisor (to address his concerns), and to the DRDRB. The fairness review concluded as WCB took appropriate action to address the worker’s concerns.

Challenges and Solutions

Operational

The FPO continues to develop its policies, procedures, and plans. Central operational items are managing ongoing workloads, handling complex work and client interactions, as well as working with current Customer Relationship Management (CRM) software limitations. One challenge is managing unreasonable conduct by complainants. A *Zero Tolerance Policy* was implemented to protect staff well-being, and maintain respectful working relationships with clients. Regardless of day-to-day challenges, there is a strong commitment from FPO management and staff to offer a high level of client service.



Strategic

The FPO is proactively assessing its organizational structure to ensure ongoing sustainability, maximum efficiency and excellent client services. Ongoing analysis of FPO’s services and results will inform changes to ensure the Minister and clients are satisfied with FPO’s service delivery.

The FPO is making sure staffing and facilities are adequate to deliver effective frontline services to injured workers, their dependants and employers. The Fair Practices Commissioner will remain mindful of Alberta’s fiscal situation and the need to use resources wisely, while innovating for efficient service delivery.