

Legal Services for Injured Workers

Workers' Advisers Program



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Legal Services for Injured Workers - Workers' Advisers Program
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Introduction

Injured workers covered under Nova Scotia's *Workers' Compensation Act* are protected through benefits and services available under a no-fault insurance system. Through what is known as the historic trade-off, workers and their families give up the right to sue for the consequences of work-related injuries in return for compensation payable regardless of fault and without the need to pursue a lawsuit in court. The other side of the historic trade-off is that employers must pay assessments to cover the cost of the system in return for immunity from civil liability arising from work-related injuries.

There are three parts to the *Workers' Compensation Act*.

- **PART I establishes the Workers' Compensation Board (WCB).**

The WCB is the policy-leader for the workers' compensation system and investigates and adjudicates workers' claims in the first instance. The WCB also administers the Accident Fund, which is made up of employers' assessments and covers the costs of the workers' compensation system.

- **PART II establishes the Workers' Compensation Appeals Tribunal (WCAT).**

Workers and employers may appeal the final decisions of the WCB to WCAT. There is a limited right of appeal from WCAT decisions to the Nova Scotia Court of Appeal.

- **PART III of the Workers' Compensation Act establishes the Workers' Advisers Program.**

The Program is an independent legal clinic that provides free assistance, advice, and representation to injured workers and their families claiming workers' compensation benefits and who meet the Program's eligibility criteria.

The Chief Worker Adviser supervises the Program and reports annually to the Minister of Nova Scotia's Department of Labour, Skills, and Immigration regarding the Program's finances and general operations. The Program's head office is in Halifax with a second office in Sydney.

Who are we?

The Workers' Advisers Program is a public legal clinic established to help eligible injured workers and their families seeking compensation under the *Workers' Compensation Act*. The Program is funded by the Provincial Government.

The Program provides free legal services independent of the WCB and WCAT. Clients of the Program are in a confidential solicitor-client relationship with the Program and its staff, in the same way as they would be with any other lawyer or law firm in Nova Scotia.

The Program provides legal services to eligible injured workers and their families at all levels of appeal in the workers' compensation system, including at Court in special cases.



Who is eligible?

Part III of the *Workers' Compensation Act* provides that there is no right to legal advice or representation under the Program. To be eligible for legal services from the Program, your appeal must have a reasonable expectation of success with a possible recovery of at least \$500.00 or its equivalent.

You are also required to cooperate with your assigned Workers' Adviser. The Program may withdraw as your legal representative if you are not cooperative, if we determine your appeal does not have a reasonable expectation of success, or where, given the nature of the matter, the amount of assistance, advice, and representation received is unreasonable.



What does it cost?

The service is provided free of charge to qualified workers. The Program covers the costs of medical reports and other information necessary for an appeal if Program staff request this information and agree beforehand to pay for it.



Requests for assistance

When a worker calls for assistance, they will be required to provide the following information:

- name;
- address;
- phone number;
- relevant claim number(s);
- date of decision (if one was received);
- general purpose of your request;
- permission to access the relevant WCB claim no.

The worker will be provided with an appointment to further discuss the claim with the Intake Team.

The Intake Team will first determine if the worker's request for service results from a written WCB decision. If the worker does not have a written decision, the Intake Team will discuss the issues on the worker's claim and will provide assistance as appropriate.

If a decision has been received, the Intake Team will review the file and assess eligibility for legal services based on the Program's criteria. The worker will be advised of the outcome of the review.

If the Program denies legal services, the worker may continue to pursue the appeal on their own and the worker may retain legal representation at their own expense.

The Program's denial of services has no impact on the status of a worker's appeal.

A worker who disagrees with the Intake Team's determination on eligibility for legal services may contact the Program's Chief Worker Adviser to discuss the matter. The Chief Worker Adviser's determination in this regard is the final determination on whether the Program will provide services.

What do we do?

Workers' Advisers are lawyers and non-lawyers with the necessary training and experience to provide legal services to injured workers and their families in workers' compensation matters.

Workers' Advisers assist and represent injured workers and their families pursuing workers' compensation benefits and services at all levels of appeal in the workers' compensation system.

Workers' Advisers review claim files and other information, consult and meet with workers and others, attend meetings and hearings around Nova Scotia, and obtain evidence and present it to workers' compensation decision-makers.

Workers' Advisers have access to research and other resources required to pursue appeals and they are familiar with the issues and pressures impacting on injured workers and their families.

What don't we do?

The Workers' Advisers Program does not represent injured workers as a special interest group or lobby government for changes to legislation. The Program does not pursue matters outside of requests or appeals for workers' compensation benefits. Thus, the Program does not get involved with such matters as Canada Pension Plan, Employment Insurance, Human Rights, private insurance, and legal issues between workers and employers.

The Workers' Advisers Program does not represent employers, the government, or other organizations.



Frequently asked questions

Q. What does a Workers' Adviser do after confirming representation on an issue?

- A.** The Workers' Adviser as a legal representative;
- conducts research;
 - gathers evidence;
 - communicates with the WCB, WCAT and Employer;
 - prepares you for the appeal;
 - prepares arguments and represents you in the appeal;
 - will discuss the mode of appeal with you (the appeal may proceed by oral hearing (in person, video or telephone) or by written submissions);
 - communicate with you as needed.

Q. What does the Workers' Advisers Program expect from me?

- A.** We expect that any communication with staff of the Workers' Advisers Program must be conducted in an honest and respectful manner.

Workers are also expected to:

- provide documents and other information requested by the Program;
- make themselves reasonably available as necessary for the appeal;

- attend medical appointments arranged by the Program or advise as soon as possible if unable to attend;
- notify the Program if you have received a written decision relating to your claim;
- inform the Program of any change in your contact information;
- provide correct and accurate information to the Program;

Q. Will the Workers' Advisers Program reimburse or pay for my travel expenses?

A. The Program does not pay workers' travel expenses to attend meetings, medical appointments or hearings.

Q. Do I need to use the Workers' Advisers Program to file an appeal, or can I do it on my own or with someone else's help?

A. You are not required to use the Program's services even if you qualify. If the Program denies you legal services or withdraws as your legal representative, you can proceed or continue on your own or retain other legal representation at your expense.

Q. Will the Workers' Advisers Program represent me on all my claims?

A. In agreeing to help with a workers' compensation issue, the Program is not agreeing to help with every other workers' compensation issue that might arise in the same claim or other claims. The Program's correspondence will confirm the issue(s) we will help you pursue. A worker can discuss possible additional issues with their Workers' Adviser.

We determine eligibility for service on an issue-by-issue basis. When a worker contacts the Program for help, it is typically because of a particular issue relating to a claim. When this issue is resolved or if the Workers' Adviser determines there is no reasonable expectation of success in an appeal, we will close the file for services. If the Workers' Adviser decides to keep the file open for a specific reason, the worker will be notified of that fact.

Q. Will the Workers' Advisers Program represent me on future appeals after my file has closed?

A. After we close your file, you are solely responsible for meeting any deadlines for filing appeals or other documents. If later you receive a decision relating to the claim which might have to be appealed, you can contact the Program and request further services.

For more information

To see if you are eligible for our services,
contact our office at:

1-800-774-4712 (toll free in Nova Scotia),
(902) 424-5050 (Halifax) or
(902) 563-2302 (Sydney).

Our Halifax office is located at:

Workers' Advisers Program
5640 Spring Garden Road, Suite 309
PO Box 1063
Halifax, NS B3J 3M7

Fax: (902) 424-0530

Our Sydney office is located at:

Workers' Advisers Program
1030 Upper Prince Street, Suite 5
Sydney, NS B1P 1P6

Fax: (902) 563-2298

