



Fair Practices
Commission

Commission des
pratiques équitables

An independent office working to ensure fair practices
at the Workplace Safety and Insurance Board of Ontario



2022 ANNUAL REPORT

fairpractices.on.ca



**An independent
office working
to ensure fair
practices at
the Workplace
Safety and
Insurance Board
of Ontario**

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Fair Practices
Commission

Commission des
pratiques équitables

Fair Practices Commission

P. 416-603-3010 - 866-258-4383 | F. 416-603-3021 - 866-545-5357
 @FPC_WSIB_Ombuds - fairpractices.on.ca



Land Acknowledgement

To begin, we would like to acknowledge that the Commission's office is in Toronto, which is located on the traditional territory of many First Nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples. Toronto is now home to many diverse First Nations, Inuit and Métis peoples. Toronto is covered by Treaty 13 signed with the Mississaugas of the Credit, and the Williams Treaties signed with multiple Mississaugas and Chippewa bands.

We offer this statement to
acknowledge and pay respect to
the Indigenous peoples who have
inhabited and cared for the land
since the beginning.

The Mission of the Fair Practices Commission



To facilitate **fair, equitable and timely resolutions** to individual complaints brought by workers, employers, service providers and their representatives.

To identify and recommend **system-wide improvements** to Workplace Safety and Insurance Board services.



ACRONYMS USED IN THIS REPORT

CMS	Chronic Mental Stress
ESDC	Employment and Social Development Canada
GECA	Government Employees Compensation Act
LOE	Loss of earnings
TMS	Traumatic Mental Stress
WSIAT	Workplace Safety and Insurance Appeals Tribunal
WSIB	Workplace Safety and Insurance Board

From the Commissioner

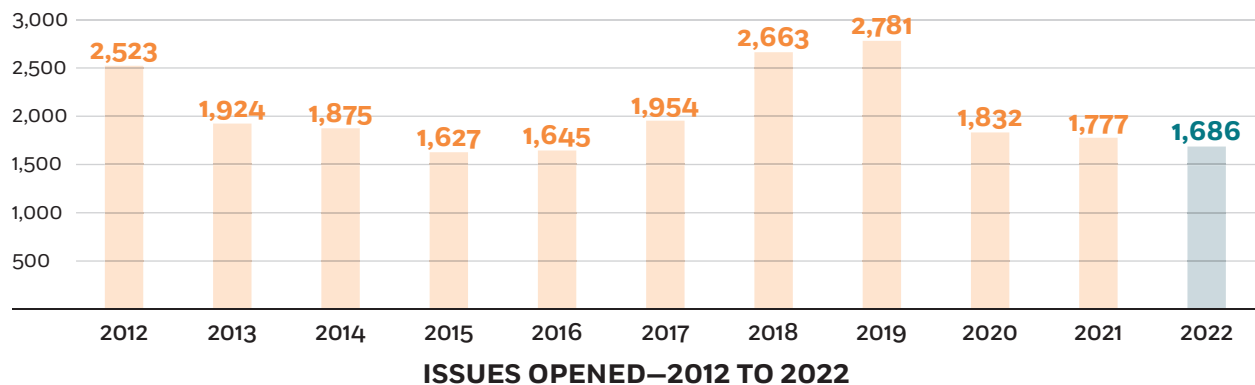


I am pleased to share with you some of the highlights and achievements of the Fair Practices Commission in 2022.

As the organizational ombudsman for Ontario's Workplace Safety and Insurance Board (WSIB), we provide an independent and impartial avenue for workers, employers, and other stakeholders to voice their concerns and seek solutions. Providing this avenue for issue resolution is important for maintaining public confidence in Ontario's workers' compensation system.

1,686

THE NUMBER OF ISSUES WE'VE RESPONDED TO IN 2022, THE FEWEST NUMBER OF ISSUES RAISED WITH US SINCE 2016.



About 78% of the issues raised with the Commission were resolved by providing information and referrals. Most often, this meant a referral to the WSIB's process for reviewing and responding to service concerns. We also educate workers and employers on the WSIB's appeals process, as well as make referrals to external

organizations that may be able to provide legal advice or other forms of assistance.

Commission staff also provide helpful information about the WSIB's processes and policies. For example, in 2022, an injured worker contacted us because she

Our goal is to resolve issues as quickly and efficiently as possible. In essence, we are a free, informal, and fast avenue for issue resolution.

was upset that the WSIB did not include her overtime in its short-term average earnings calculation. We provided the injured worker with information about WSIB Policy 18-02-02 (*Determining Short-term Average Earnings*) and referred her to a WSIB manager. After her discussion with the manager, the WSIB recalculated the injured worker's short-term rate to reflect her voluntary overtime.

If someone remains unhappy after escalating within the WSIB, we will conduct a review to determine whether there is a current fairness issue at play. We analyze each issue against four fairness categories:

- **Decision-Making Process**
- **Delay**
- **Communication**
- **Behaviour**

As part of our review, we gather all relevant information and, if necessary, speak with the WSIB. If we determine that there may be a fairness issue, we raise it with the WSIB and seek resolution. Our goal is to resolve issues as quickly and efficiently as possible. In essence, we are a free, informal, and fast avenue for issue resolution. In 2022, the WSIB took action to address 273 issues we raised with them. Some of these resolutions were straightforward, such as an apology for a delay. However, as you will read in the examples of individual case resolutions beginning on page 23 of this report, some of the resolutions we helped achieve in 2022 had a significant positive impact on the lives and recoveries of the individuals involved.

Similar to prior years, most of the complaints we received were from injured workers or their representatives. The Commission is also able to respond to complaints from employers and service providers. We review each complaint impartially and in accordance with the principles of administrative fairness.

We also continued to highlight systemic issues in 2022.

For example, as you will read on page 18 of this report, our inquiries helped prompt the WSIB to make systemic improvements in how it makes payments to workers living in other countries.

The year 2022 was also one of transition for the WSIB as it welcomed a new Chair, Grant Walsh, and a new President and CEO, Jeff Lang. Having met with each of them several times, it's clear to me that they share a strong commitment to improving service at the WSIB.

The WSIB has demonstrated its focus on customer service excellence in its recently improved escalation process. The WSIB's customers can now raise service concerns on the WSIB's website, through two-way messaging, or via the WSIB's main customer service line. The WSIB will be tracking the issues raised through these channels to ensure accountability. I am confident these improvements will benefit the hundreds of thousands of injured workers and employers who routinely access the WSIB's services.

I want to thank my staff for their dedication and professionalism in serving the public. I also want to thank the injured workers, employers, advocates, and other stakeholders who contacted us, raised issues, and shared their feedback. Your input helps us identify areas where we can make a difference.

Also, thank you to the WSIB's Board of Directors for your continued support of the Commission and our work.

Finally, to the staff at the WSIB: Thank you for taking the time to respond to our questions and inquiries. And thank you for helping us resolve the fairness issues we bring to your attention.

I look forward to continuing our work in 2023 and beyond.



Tom Barber
Commissioner



VALUES

An Independent Office

The Fair Practices Commission is an independent office that works to promote and ensure fair practices at the WSIB of Ontario.



\$1,122,000

OUR OPERATING BUDGET FOR 2022.

AS THE ORGANIZATIONAL OMBUDSMAN FOR THE WSIB, WE:



Listen

to the people who contact us and provide options for resolving problems.



Provide

a free and informal avenue for quick resolution of service issues.



Identify

recurring issues and report them to the WSIB with recommendations for improvements.

THREE MAIN PRINCIPLES GUIDE OUR WORK:



Impartiality

We advocate for fairness and do not take sides in complaints.



Confidentiality

All inquiries are confidential unless we receive specific consent to discuss or disclose information with outside parties.



Independence

We serve injured workers, employers, service providers, and their representatives, and work independently in the interest of fairness. We report directly to the Board of Directors, the governing body of the WSIB.

The Value of the Commission's Work



Providing accountability and enhancing oversight

Our independence from the WSIB provides an opportunity for the Commission to take a fresh look at concerns and find solutions. We gather information and apply the principles of administrative fairness to our analysis of the issues. We assist the Board of Directors in its governance of the WSIB by reporting on the concerns raised by the people the WSIB serves and by highlighting trends.



Promoting fairness

By emphasizing the principles of administrative fairness, we foster a culture that promotes public confidence and trust in the WSIB. We can act as a resource for WSIB staff on questions of fairness and provide impartial analysis to help improve service.

Our intervention at an early stage may help to prevent future unfairness as well as the expense and time invested in formal appeals.



3

Resolving issues

We assist WSIB staff in understanding the concerns and frustrations of the people they serve. Experience shows that this type of informal facilitation helps to build stronger relationships and provides better tools for tackling future problems for all parties involved. Our intervention at an early stage may help to prevent future unfairness as well as the expense and time invested in formal appeals.



4

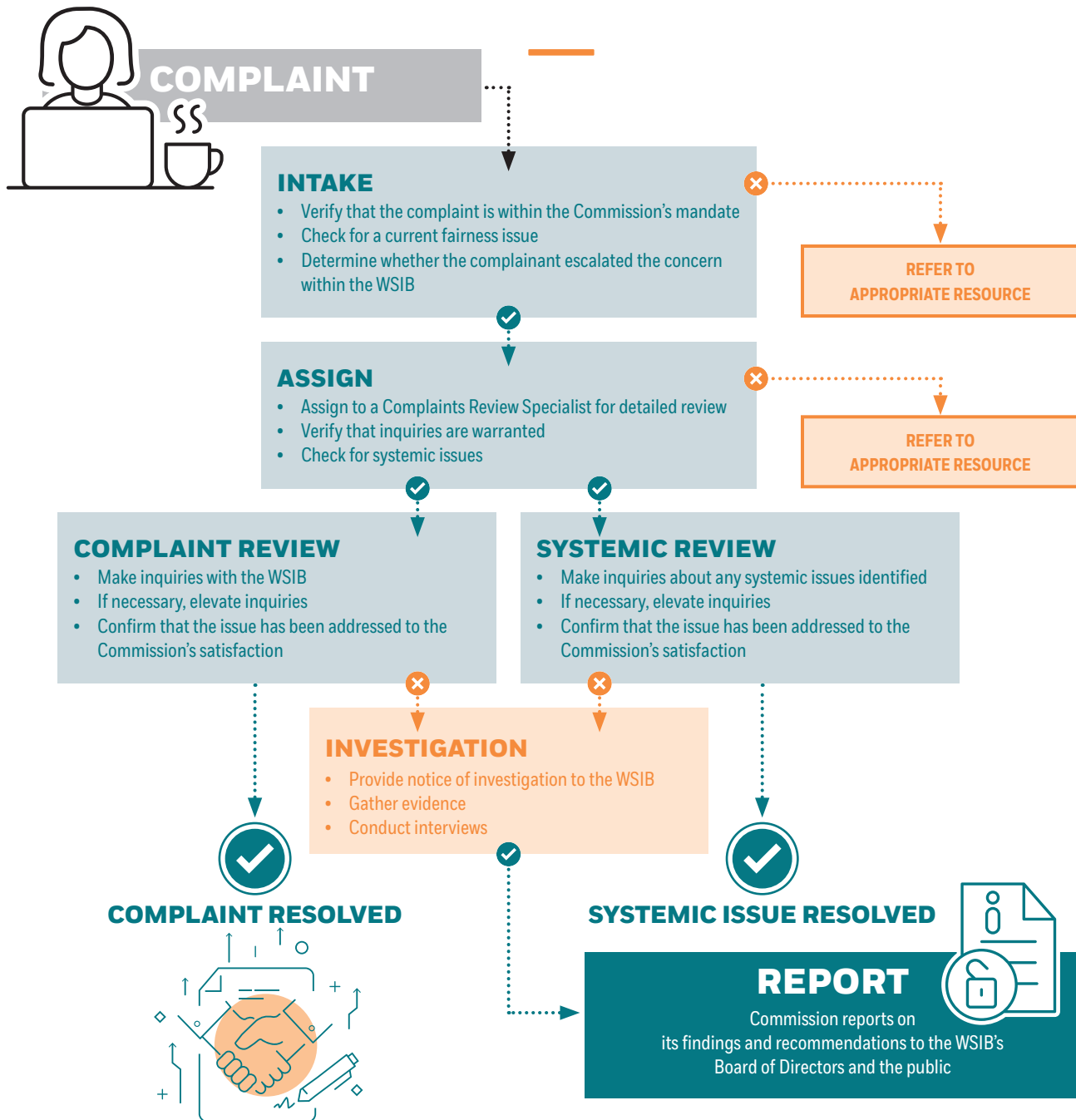
Improving service

We can prevent problems through our capacity to track complaints and identify recurring themes and patterns. We are able to identify systemic issues and recommend changes in an effort to avoid similar problems from occurring in the future. This helps the WSIB to adapt and respond to the needs of the people it serves.

COMPLAINTS



The Process



By the Numbers

COMPLAINTS TO THE COMMISSION IN 2022



WHO CONTACTED THE COMMISSION IN 2022



Average of
8 DAYS

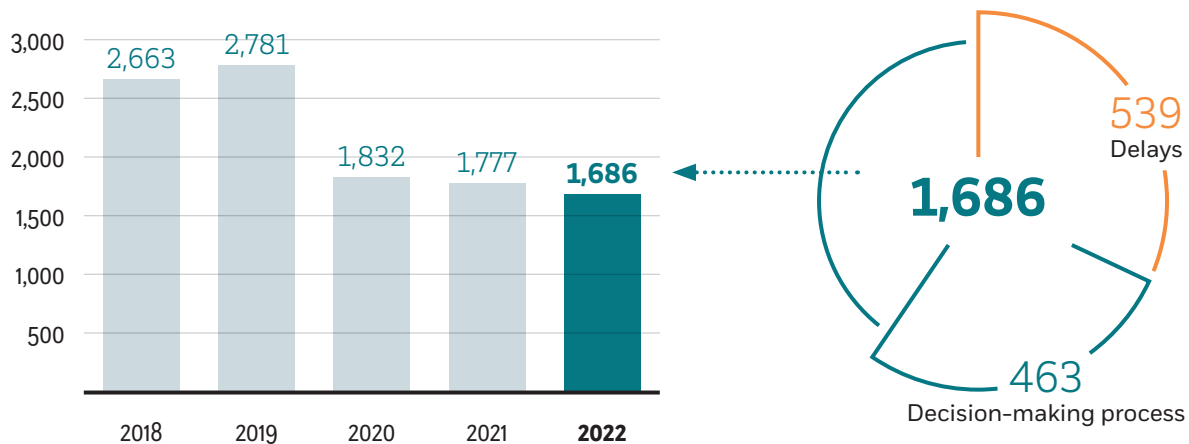


for the Commission
to resolve complaints in 2022.

Five-Year Summary

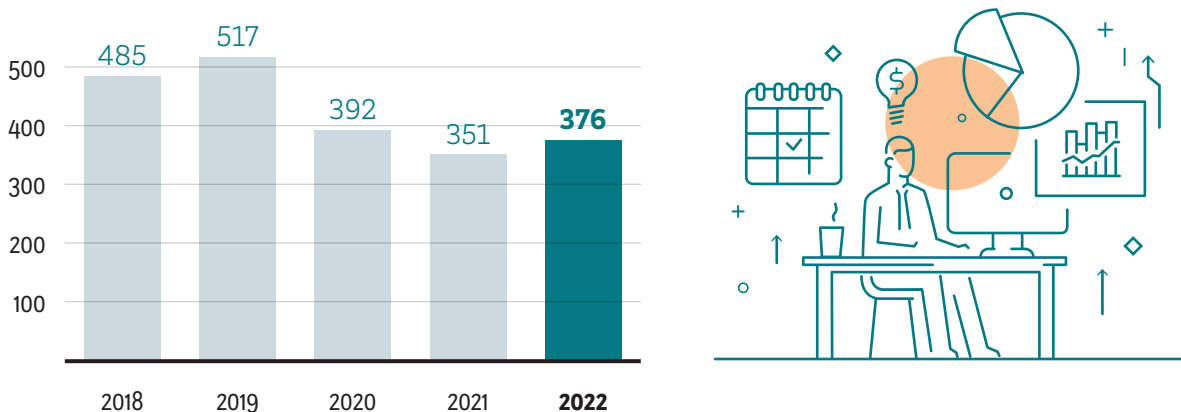
ISSUES OPENED

When a worker, employer or service provider contacts the Commission, a file is opened. Often a complainant will raise more than one issue when they contact the Commission. The Commission received 1,686 issues in 2022, compared to 1,777 in 2021. Most of the issues in 2022 were about delays (539) and the decision-making process (463).



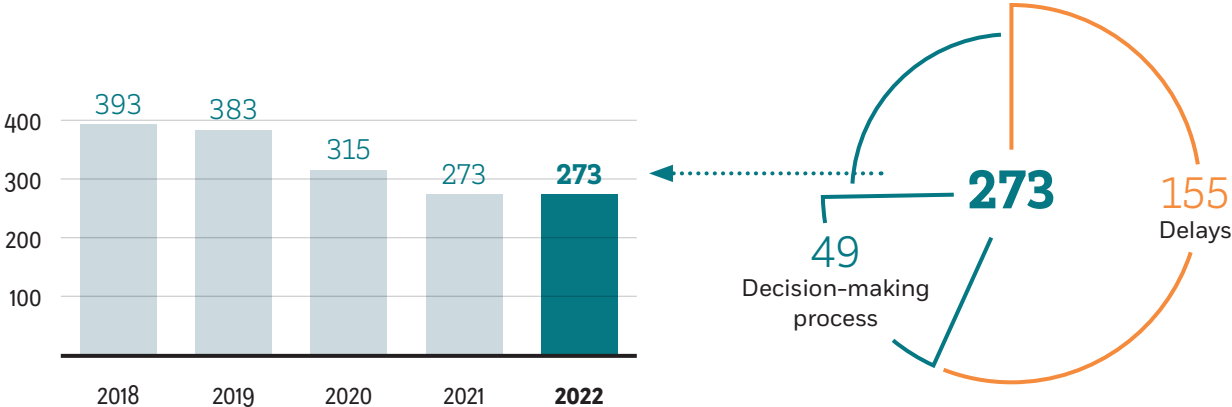
INQUIRIES MADE BY COMPLAINTS REVIEW SPECIALISTS

Complaints Review Specialists conduct inquiries when the Commission identifies a potential fairness concern that the complainant has been unsuccessful in resolving directly with the WSIB.

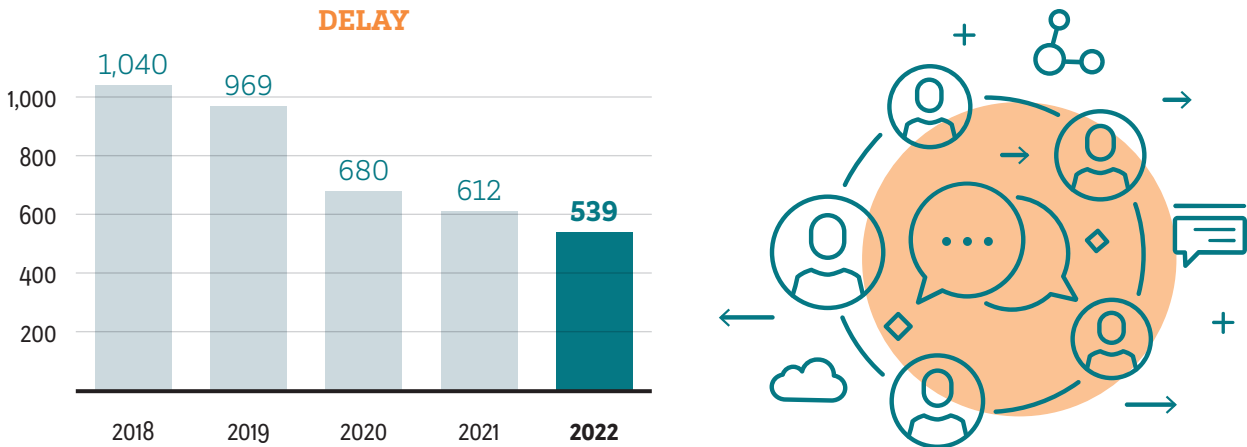


ISSUES THE WSIB HAD TO ADDRESS

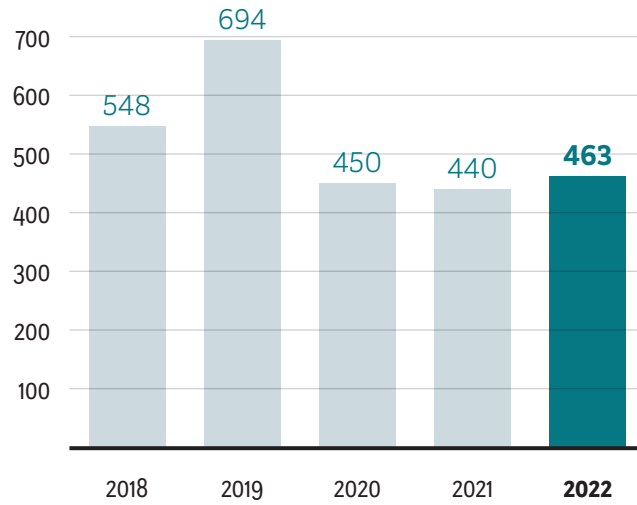
When a worker, employer or service provider contacts the Commission, a file is opened. Often a complainant will raise more than one issue when they contact the Commission. The number of fairness issues that required action by the WSIB was the same in 2022 as it was in 2021. Most of the issues were about **delays (155)** and the **decision-making process (49)**.



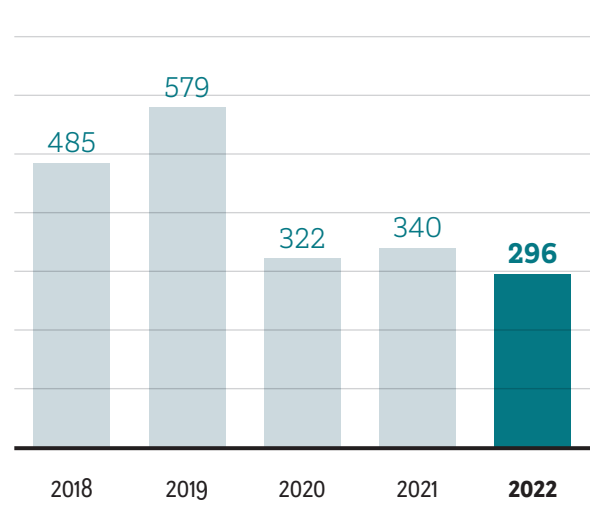
ISSUES OPENED BY FAIRNESS CATEGORY



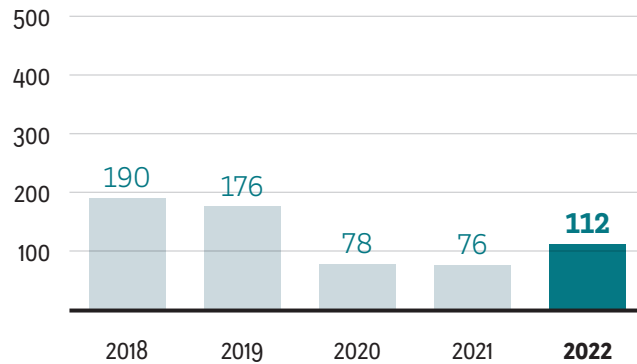
DECISION-MAKING PROCESS



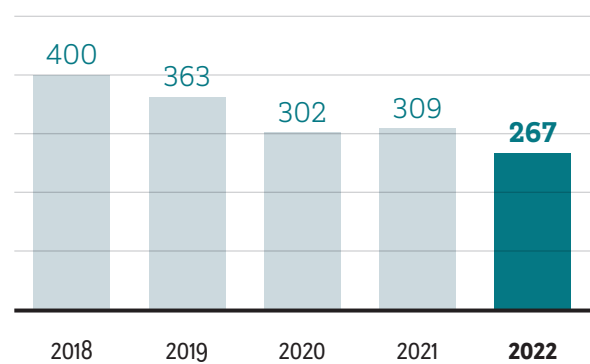
COMMUNICATION



BEHAVIOUR



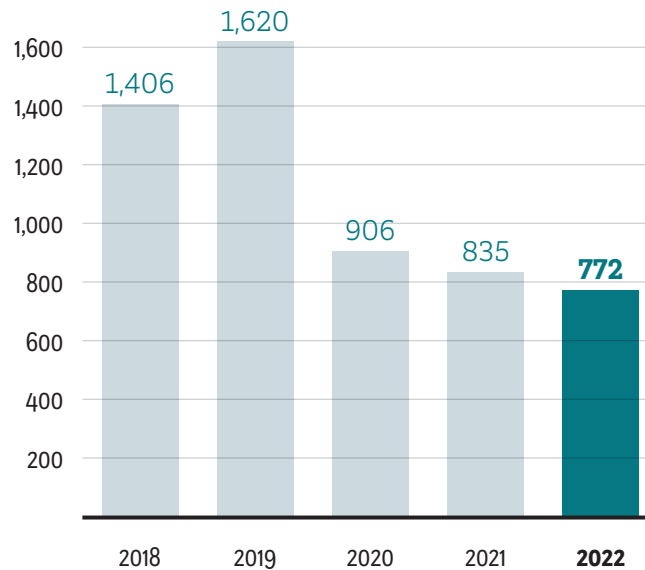
NON-MANDATE



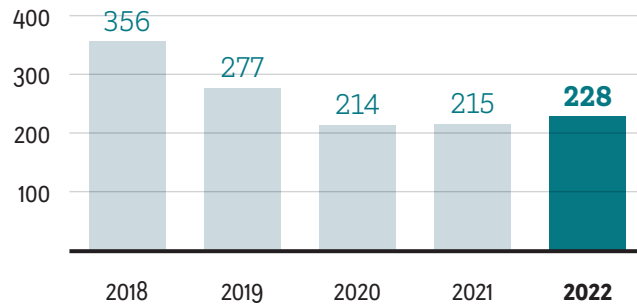
TOP 5 COMPLAINTS BY SUBJECT



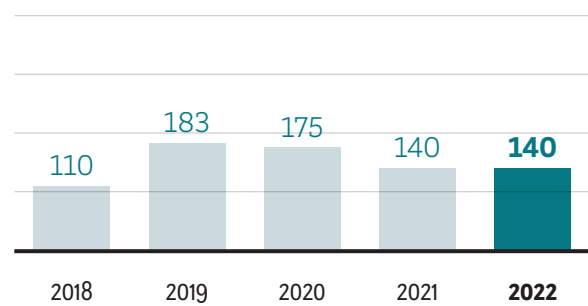
BENEFITS



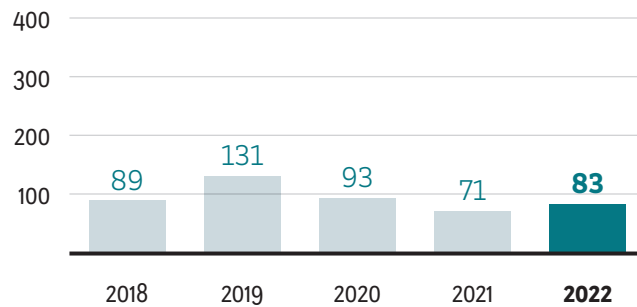
HEALTH CARE



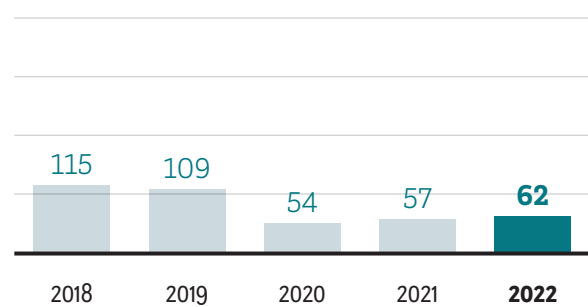
RETURN TO WORK



APPEALS



NON-ECONOMIC LOSS



Systemic Issues

1 ENTITLEMENT DECISION DELAYS FOR FEDERAL GOVERNMENT EMPLOYEES

In our [2021 Annual Report](#) (see p.12), the Commission highlighted concerns about delays in the WSIB's entitlement decisions for some claims from federal government employees.



Under an agreement with the federal Minister of Labour, the WSIB administers compensation claims for federal employees covered under the *Government Employees Compensation Act*. Before the WSIB can adjudicate a claim, the agreement requires the WSIB to confirm the claimant's employment status with Employment and Social Development Canada (ESDC). In practice, this means that ESDC must countersign the *Employer's Report of Injury/Disease* (the WSIB's Form 7) before the WSIB will adjudicate the claim.

WSIB staff acknowledged that the issue of delays with countersigned Form 7s is a well-known and long-standing problem. Further, the WSIB's data analysis confirmed that some cases involved significant delays by federal employers in reporting workplace incidents and returning countersigned Form 7s.

In late 2022, the WSIB met with ESDC to discuss the possibility of renegotiating the GECA service level agreement. In the interim, the WSIB is leveraging the relationships it has developed at ESDC to move along claims where there have been significant delays in obtaining a countersigned Form 7.

2 WSIB COMPLETES MODERNIZATION OF ITS ANONYMOUS CLAIM MANAGEMENT PROCESS

In our [2021 Annual Report](#) (see p.15), we reported on the steps the WSIB was taking to modernize its anonymous claim management process.

The WSIB's anonymous claim management process is for claims involving serious security concerns. In such cases, the WSIB removes the names of its staff working on the files from all documents, and neither the worker nor their representative may contact the WSIB by telephone or communicate directly with the Claims Management team.

Historically, these claims were paper-based and not managed with the WSIB's claims management software. The WSIB also required that all communication pass through the WSIB's Security Office. However, we frequently heard from complainants that the WSIB did not respond to correspondence submitted through this process.



The representative of one injured worker with a claim managed by the Anonymous Claim Management team told us that she appreciated the improvements. She said that she is now able to receive the same level of service as she does on non-restricted claims.

For example, in 2022, a worker representative contacted us about her challenges in communicating with the WSIB due to her client's security restriction. She sent letters via fax and mail to the WSIB's security office, and then called the WSIB to confirm receipt. Weeks later, she received a letter from the WSIB's Anonymous Claim Management team stating that it had not received her correspondence. The letter invited her to submit documents via the WSIB's document upload tool. The representative contacted the Commission to facilitate communication between her and the Anonymous Claim Management team.

In early 2022, the WSIB began uploading anonymous claims to its claims management system, thus allowing WSIB staff to take advantage of system reminders and other claims management features. These improvements have also allowed restricted workers and their representatives to take advantage of the WSIB's claims modernization initiatives, such as the WSIB's document upload tool. The WSIB also reviewed all claim files currently assigned to the Anonymous Claim Management team in order to ensure the assignment is still appropriate.



New Systemic Issues

1 **WSIB'S FOREIGN PAYMENT PROCESS**

When foreign agricultural workers are injured or become ill because of their job in Ontario, they are eligible for WSIB benefits and services like any Ontarian covered by the WSIB. The WSIB is required to help with the workers' recovery and return to work whether they are in Ontario or their home country.

In late 2021, the Commission received two complaints from foreign agricultural workers who had returned home to Jamaica. Both complained of delays in receiving pre-approved payments for travel expenses for health care treatment.

Following inquiries by the Commission with the Claims Management team, the Health Care Payment team and the Treasury team, the WSIB was eventually able to send the money to the workers via wire transfer.

The WSIB acknowledged that the issue of sending payments abroad has been a longstanding problem and that it does not have a consistent and reliable process for making these payments. The WSIB explained that fraud prevention and anti-money laundering rules often cause delays and the rules can differ among countries and banks.

The WSIB's new President and CEO committed to resolving this issue, and the WSIB took a number of steps to improve its processes. Through our inquiries on this issue, we also learned that there have been improvements in cooperation between the various teams involved in the foreign payment process and that wire transfer payments are now being set up more quickly. The Commission is continuing to gather information about the WSIB's process improvements and monitor the issue.



2 WSIB RECONSIDERS APPROACH TO ADJUDICATING CLAIMS FOR MENTAL STRESS

A worker representative complained that the WSIB was not consistently adjudicating claims for mental stress under both its [Traumatic Mental Stress \(TMS\)](#) and [Chronic Mental Stress \(CMS\)](#) policies.¹

The representative provided several examples of the WSIB adjudicating his clients' claims under the TMS policy only. In each of the claims, he asked the WSIB to adjudicate the claim under the CMS policy as well. After further review and adjudication, the WSIB either allowed the claim or issued a decision denying the claim under the CMS policy, thus allowing the representative to appeal the decision. However, the representative complained that his systemic concern about the WSIB's practice went unaddressed.

In his complaint to the Commission, he noted that, as an experienced representative, he was aware that he could ask for a decision under the CMS policy, if necessary. He was concerned, however, that self-represented workers may be unaware of the CMS policy.



In reviewing the complaint, Commission staff considered the relevant legislation, policies and internal guidance documents. There did not appear to be any guidance for staff on informing workers about the two different policies or explaining under what circumstances decision-makers should consider both the CMS and TMS policies when adjudicating claims.

Commission staff spoke with a director in the Mental Stress Injury Program. She explained that the representative had already raised his concerns with her, and after further consideration, she determined that, going forward, if the WSIB were to deny a claim under the TMS or CMS policy, it would then adjudicate it under the other policy. She noted that the CMS policy is generally only considered for ongoing cumulative mental stress claims, but she acknowledged that it could also be applicable in single-event claims.



Operational Policy Manual

Traumatic
Mental Stress
Policy

[CLICK HERE](#)



Chronic
Mental Stress
Policy

[CLICK HERE](#)



Posttraumatic Stress Disorder
in First Responders and Other
Designated Workers Policy

[CLICK HERE](#)



¹ Policies 15-03-02 (*Traumatic Mental Stress*) and 15-03-14 (*Chronic Mental Stress*). There is a separate policy for first responders—see Policy 15-03-13—*Posttraumatic Stress Disorder in First Responders and Other Designated Workers*



Individual Case Resolutions

Decision-Making Process

1 NEW MEDICAL OPINION LEADS TO FURTHER BENEFITS AND TREATMENT FOR INJURED WORKER

An injured worker complained that the WSIB had not properly considered [Policy 15-02-03 \(Pre-existing Conditions\)](#) in determining that his low back injury had resolved with no permanent injury. Although he had a prior back condition, it had not prevented him from working in the past. At the time of the decision, however, he was not able to perform his pre-injury job, and his employer had laid him off as a result.



He escalated his concerns to a manager and the President's Office. The WSIB upheld its decision after reconsideration. However, the worker found the decision letter confusing and pointed out that it did not provide a clear analysis of how the policy applied to his case.

In reviewing the complaint, we noted that the WSIB's policy and internal guidelines provide a framework on how to approach these decisions, including a requirement to obtain a clinical opinion when distinguishing between the contribution of a work-related injury and a pre-existing condition to an ongoing impairment.

When we raised this information with a manager, he agreed to send the file for a medical opinion. The medical opinion supported an ongoing work-related impairment, leading the case manager to overturn his previous decision. As a result, the WSIB reinstated the worker's loss of earnings (LOE) benefits and referred him to a WSIB specialty clinic for further treatment.

As a result, the WSIB reinstated the worker's loss of earnings (LOE) benefits and referred him to a WSIB specialty clinic for further treatment.



2 EMPLOYER FOUND TO BE IN BREACH OF RE-EMPLOYMENT OBLIGATION

A worker complained that the WSIB refused to take action after his employer would not allow him to return to work and terminated his employment. The case manager and manager told him that it was an employment issue between him and the employer because the WSIB determined that he had fully recovered from his workplace injury.

If certain conditions are met, an employer has an obligation to re-employ a worker who has been unable to work due to a workplace injury or illness.² The WSIB may examine the circumstances of a termination to determine whether it is a breach of the re-employment obligation. Based on the date of injury, it appeared that the re-employment obligation was still in effect at the time of termination.

The Commission made inquiries with a WSIB manager about the application of the WSIB's re-employment obligation policies in this claim. Following that discussion, the manager referred the claim to the WSIB's Re-Employment team.

The Re-Employment team reviewed the claim on a priority basis and determined that the employer was in breach of their re-employment obligations. The worker received retroactive LOE benefits dating back to the date of termination and the WSIB fined the employer.

3 LOE BENEFITS RECALCULATED TO ACCURATELY REFLECT NON-EARNING PERIODS

In December, an injured worker complained that the WSIB had calculated his LOE benefits incorrectly, causing him financial distress.

When the WSIB determines the long-term average earnings for a permanently employed worker, it removes non-earning periods (weeks or months in some cases) that are not part of the worker's normal employment pattern from the calculation.

Prior to his accident, the worker had missed time at work due to illness and paternity leave. He felt that the WSIB had not appropriately discounted these non-earning periods in calculating his long-term earnings rate.

We initially referred the worker to a WSIB manager. However, the worker returned to us and said that the manager told him the long-term earnings rate was correct.

In reviewing the claim file, we noted that the employer had provided the WSIB with a list of shifts the worker had missed due to his unpaid absences. This caused the WSIB to deduct just the days he missed work rather than the entire non-earning period.

We made inquiries with the WSIB to clarify its practice for factoring out non-earning periods in its earnings rate calculations.

Following our inquiry, the WSIB reviewed its calculation and increased the worker's long-term average earnings rate. The worker received a cheque based on the recalculated rate, which he called "a Christmas miracle."

² For further information, see [Policy 19-02-09—Re-employment Obligations](#)

When we pointed out this issue to the manager, he acknowledged the fairness concern and took immediate steps to address it.

4 WSIB AGREES TO IMPLEMENT WSIAT DECISION AFTER FURTHER REVIEW

A worker complained that the WSIB was refusing to implement a 2020 Workplace Safety and Insurance Appeals Tribunal (WSIAT) decision that had allowed ongoing entitlement for a specific area of injury.

As is often the case, once the WSIAT allowed ongoing entitlement to an area of injury, it referred the matter back to the WSIB to determine the nature and duration of the benefits flowing from the WSIAT's decision.

When the WSIB's Appeals Implementation team reviewed the matter, it decided that the worker's injury resolved in 2009 based on a specialist's report from that year.

The worker complained to a manager who told the worker he could appeal the decision.

In reviewing the claim, we noted that the WSIB's 2020 implementation decision appeared to be essentially the same as its original decision, i.e., that the worker's injury had resolved in 2009 without any ongoing impairment. The WSIAT decision allowing ongoing entitlement cited medical information from 2017 and 2018.

When we pointed out this issue to the manager, he acknowledged the fairness concern and took immediate steps to address it. He referred the claim to the Non-Economic Loss team on an expedited basis, and the WSIB allowed a permanent impairment award soon after.

5 WSIB AGREES TO PAY SERVICE PROVIDER'S DELAYED INVOICE

A psychologist's office complained that the WSIB refused to acknowledge that it had discretion to pay a delayed invoice. The office told us that they had attempted to submit the invoice on time and were under the impression that it had been received because they received a payment. In fact, that payment was for a previous block of treatment.

Upon realizing the mistake, the psychologist's office re-submitted the invoice and explained the situation to the WSIB. However, WSIB staff said they had no discretion under s. 33(4) of the *Workplace Safety and Insurance Act*³ to pay the late invoice. The psychologist's office pointed out, both verbally and in writing, that this section of the Act does provide the WSIB with discretion.

We referred the psychologist's office to a manager, but they didn't receive a call back.

When we made an inquiry and outlined the service provider's concerns, the manager agreed that the legislation gives the WSIB discretion to pay late invoices, and he decided to pay the invoice in full.



³ **Penalty for late billing** - 33(4) If the Board does not receive a bill for health care within such time as the Board may specify, the Board may reduce the amount payable for the health care by such percentage as the Board considers an appropriate penalty.

Individual Case Resolutions

Delay

1 **WSIB EXPEDITES SPECIALITY CLINIC REFERRAL**

Ten months after a worker sustained injuries in a work-related motor vehicle accident, his case manager noticed that he had not been asked to choose between claiming benefits from the WSIB or suing any third party with potential responsibility for the incident.⁴ At the time, the worker was still undergoing medical assessments and performing a modified work plan.

The WSIB held the claim in abeyance while the worker considered his options and claim activity came to a standstill. Two months later, the worker confirmed that he would continue to claim benefits through the WSIB. He left several messages for the case manager but received no response.



The worker was finding it increasingly difficult to manage his modified work duties, and the WSIB had yet to address the treatment recommendations made by the specialty clinic prior to his claim being put on hold. The worker tried to escalate his complaint, but the manager had the case manager respond on their behalf. The case manager referred the claim to a return-to-work specialist, but the treatment recommendations for the worker remained unaddressed.

The employer then complained to a manager on the worker's behalf and the manager committed to having the case manager address the matter. Two weeks later, the worker had not heard from the case manager, so he contacted the Commission.

When the Commission made an inquiry, the manager acknowledged that the WSIB should have sent the worker to a specialty clinic for further assessment after the worker confirmed he would continue to seek benefits through the WSIB. Given the extended disruption to the worker's treatment, the WSIB facilitated an immediate referral back to a specialty clinic to clarify the appropriate treatment and for consideration of whether or not the worker may have a permanent impairment.

⁴ Per Section 30 of the *Workplace Safety and Insurance Act* and WSIB Policy 15-01-05 – *Third Party Rights of Action*, workers with potentially concurrent entitlements are required to elect whether to claim benefits from WSIB or to commence an action against a person in respect of the injury or disease, and notify the WSIB of the option elected.



2 **DECISION IMPLEMENTATION PROCESS MOVES FORWARD AFTER DELAY**

A worker complained about a delay in implementing a November 2021 decision of the Workplace Safety and Insurance Appeals Tribunal, which granted the worker the right to pursue benefits through the WSIB for a 2013 work-related motor vehicle accident.

The worker had not been able to return to his pre-injury job as a miner, but the WSIB determined that he could return to some form of work. Therefore, the WSIB needed to determine a suitable occupation and then calculate his LOE benefits.

The worker had escalated his complaint previously, but the WSIB still had not issued its decision, so he contacted us in September 2022. Through our inquiries, we discovered that the Claim Management team had sent a consult request to the Return-to-Work team in June 2022, but it was still outstanding.

The manager in the Return-to-Work team acknowledged the consult was overdue, apologized for the delay, and committed to having a response completed within a week. Once this was complete, the case manager was able to move forward with the partial LOE benefits decision. **The WSIB ultimately determined the worker was entitled to approximately \$361,000 in LOE benefits.**



3 **WORKER'S APPEAL PROCEEDS FOLLOWING LENGTHY DELAY**

A worker complained to us about delays in the WSIB's appeals process. She told us that she tried to escalate her concern to a manager. However, a customer service representative asked her to leave a voicemail for the case manager instead.

The worker said that she asked the customer service representative for the "ombudsman's office" (i.e., the Fair Practices Commission) and was instead given the phone number for the Workplace Safety and Insurance Appeals Tribunal, which referred her to the Commission.

When we made inquiries with a WSIB manager, we learned that the WSIB neglected to forward the worker's appeal to the Appeals Services Division four months earlier, following the denial of the worker's reconsideration request.

The manager apologized to the worker and referred the file on a priority basis to the Appeals Services Division, which scheduled an oral hearing for the following month.

4 PSYCHOLOGIST'S TREATMENT PLAN IS APPROVED, INVOICES PAID

A psychologist complained to the Commission that the WSIB had not informed her if it would approve a treatment plan she submitted two months earlier. She also complained that the WSIB had not paid some of her previous invoices. She continued to provide treatment but she said the uncertainty about whether the WSIB would pay for the ongoing treatment was causing the worker distress.

She said she left voicemails for the case manager and manager but did not hear back.

Once we brought these issues to the attention of a manager, a nurse consultant reviewed and approved the treatment plan the following day. The outstanding invoices were also paid shortly afterwards.



“Thank you for listening.
Thank you for your
empathy.”

—Worker



Individual Case Resolutions

Communication

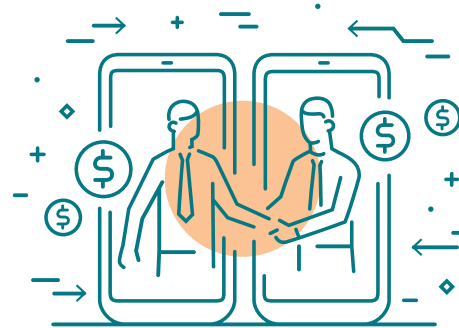
1 CUSTOMER SERVICE IS UNABLE TO CONNECT WORKER WITH MANAGER

A worker who was without income and awaiting a decision on LOE benefits complained to us that WSIB staff were not returning his messages.

The worker used the WSIB's two-way messaging system to follow up on his claim. He sent six messages over a two-week period. In response, various customer service representatives assured him that the case manager would contact him within two business days or that his concern had been escalated to a manager who would call him within one business day. Nobody from the WSIB called the worker.

Upon reviewing the record of contact between the worker and the WSIB as well as the WSIB's internal escalation protocols, we identified both individual and systemic fairness issues.

Through our inquiries on the individual case, we learned that the manager mistakenly believed that



the escalations were from the employer, so she had asked the case manager to reach out to the employer instead of the worker. Following our inquiry, the WSIB completed the LOE decision within two weeks, granting the worker retroactive LOE.

Regarding the systemic concern, the WSIB's Issues Management team acknowledged that customer service representatives had no protocol to follow if an issue had been escalated to a manager but remained unaddressed. In December 2022, the WSIB launched a new process for tracking and resolving all service escalations.

“I don’t know if you know how important your office is. You do good work and I’m so grateful you’re there.”

—Worker

2 WSIB LOCATES MISSING MEDICAL REPORT, ALLOWING APPEAL TO PROCEED

An injured worker complained to the Commission that the WSIB had not made sufficient efforts to locate a missing medical report needed for his appeal.

At the prompting of the worker's previous representative, the WSIB sent requests for the medical report to various hospitals without success. Multiple specialty clinics had assessed the worker, which appeared to lead to some confusion about where to make the request.

The Commission asked a WSIB manager if they had attempted to bypass the Hospital Records department and contact the clinic directly about the missing report.

After calling the clinic directly, WSIB staff received the missing report that same day, and the WSIB prioritized reconsideration of its previous decision.



3 COMMISSION CONNECTS FAMILY OF DECEASED AGRICULTURAL WORKER WITH THE WSIB



A family in Vietnam emailed the Commission because they were having difficulty navigating the Ontario workers' compensation system after the father of the family died in an accident on a farm in Ontario.

Upon reviewing the claim file, we noted that a WSIB Crisis Intervention Counselor had been trying, without success, to reach a different relative who lived in Ontario.

We were able to connect the family with the Crisis Intervention Counselor so she could send the family the appropriate documentation to move forward with the claim for survivor benefits.

4 **WORKER IS LEFT IN THE DARK WHILE WSIB RECONSIDERS ENTITLEMENT TWICE IN HIS CLAIM**

A worker complained to the Commission about delays and conflicting communication in the handling of his claim. He said he had been without income for more than two months, living off credit, and forced to stop attending his approved physiotherapy appointments because he couldn't afford gas to get to them.

According to the information we received during our inquiries, the WSIB reconsidered its own entitlement decision twice, which caused delays in paying LOE benefits. The worker told us that one of the most frustrating aspects of the experience was the lack of any proactive communication from the WSIB.

A WSIB manager acknowledged that the worker had received very poor service, and she had the payment processed on an urgent basis following the WSIB's reconsideration decision. We followed up with the worker to confirm he did ultimately receive his LOE cheque.



“You’ve picked me up and pointed me in the right direction. I appreciate your listening because I need to be heard. I’m feeling better. That means a lot.”

—Worker



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