INTERVIEW QUESTIONS - WORKERS' COMPENSATION
APPEALS POLICY AND PROCESS

JURISDICTION: SASKATCHEWAN

1. STRUCTURE OF APPEAL PROCESS

Please review and confirm the information in the attached summary of information on the appeal structure and process in your jurisdiction. In addition, if not already covered in the excerpt, can you please provide the following information:

• Composition and Size of Appeal Body(ies) (including do members have to meet any special qualifications?)

Appeals from decisions of the Saskatchewan WCB are heard by the board itself (three full-time directors: one representative of workers, one of employers and an independent chair). A majority of cases are heard by two board members.

The only external appeal body in Saskatchewan is the medical review panel. The chair of the panel is appointed by the board of directors of the WCB, in consultation with the Saskatchewan medical association. Two additional persons, chosen by the person requesting the review from a list of names supplied by the board, also sit on the panel.

• Selection and Appointment Process (is there a formal selection process, who appoints members to the appeal body, on what basis can members be removed, does the WCB play a role in the selection process?)

Not applicable.

2. INDEPENDENCE

Is there some type or form of reporting relationship, either formal or informal, between the Chief or Head of the appeal body and the WCB? Is Chief of appeal body a member (voting or non-voting) of the board of directors of the WCB? Does the Chief or Head of the appeal body sit on any WCB board committees?

Not applicable.
Who is responsible for developing and setting policies, practices and procedures of the appeal body? Does the WCB have any oversight role in creating or approving the rules governing the operations of the appeal body or the way it conducts its business?

All policies and practices for the appeal process are set by the board of directors.

If appeal process is independent of the WCB, how is independence maintained:

- Does the appeal body report to government through the same government ministry or department as the workers' compensation agency? Is the appeal body the responsibility of a different Minister than the Minister responsible for workers' compensation?
  Not applicable.

- Is the appeal body located in separate premises from the workers' compensation agency?
  Not applicable.

- Does the appeal body share staff or resources with the WCB?
  Not applicable.

- Does the appeal body have authority to set its own budget?
  Not applicable.

- What means are used to avoid the perception of bias (for example, representational membership)?
  The board of directors of the WCB has representational membership (tri-partite board structure).

If there is a final appeal to the court, is this a matter of judicial review or is it a similar process specifically authorized under the workers' compensation statute (e.g. appeal to the court on a question of law)?

Decisions of the board are subject to judicial review.

3. POLICY MAKING

Does the WCB have exclusive authority to create policy? Is a board policy binding on the appeal body? OR is the WCB (and lower level appeal authority, if any) bound to
apply decisions of the appeal body either as policy of general application or to implement case specific decisions?

The board of directors establishes policy, but is not bound by its own policy.

Are there any mechanisms to ensure consistency in board policy and decisions of appeal body?

Not applicable.

4. SCOPE OF APPEAL AND TIME LIMITS

If not covered in the summary of your jurisdiction's appeal process:

• Do employers have the same options as workers for appeal? If not, what differences are there in access to appeal and the appeal process for employers and workers?

Employers and workers have same options to appeal and follow the same process.

• Is there a time limit for bringing an appeal? Is there a time limit imposed on the appeal body for the hearing of an appeal? If there are time limits, to what extent are these time limits achieved at the present time?

No time limits.

• What is the nature of decisions allowed for appeal - for example any decision of the WCB or just final decisions?

Any final decision of the WCB may be appealed to the board (a final decision is a decision that has progressed through the preliminary internal review steps).

• Does a person aggrieved by decision of WCB need "leave to appeal" or are there any specific prerequisites for appeal (for example, a person may only appeal if there is substantial new evidence)?

No requirements for leave to appeal, or other restrictions.
5. PRACTICE AND PROCEDURES

How would you describe the basic approach to appeals in your jurisdiction (for example, is it based on an inquiry or an adversarial approach)?

An inquiry based approach to appeals is in place in Saskatchewan.

Are appeal hearings de novo or on the record?

Appeal hearings are de novo. There is no published record of the proceedings, but the secretary will take notes and prepare a summary of the proceedings.

Are appeal hearings open to the public (what mechanisms to ensure privacy rights are protected)?

Appeal proceedings are not open to the public.

How frequently are oral hearings granted by appeal bodies?

The majority of appeals are considered by way of documentary or file review. If the appellant requests an oral hearing this will generally be accommodated.

Is there provision for frivolous or vexatious complaints to be summarily dismissed?

There are no specific provisions for summarily dismissing a complaint.

Do adjudicators have standing at appeal body hearings?

The WCB and its officials do not have standing at appeal proceedings.

Are successful appellants awarded costs to help defray expenses (any provisions to provide financial support to appellants)?

There is capacity to pay interest on an award if there was administrative delay in hearing the case.

Are appeal polices, practices, procedures and findings of the appeal body made available to the public? Is the appeal body required (by statute or otherwise) to prepare an annual report on its operations and activities which is publicly available?

Policies of the board, including policies affecting the appeal function, are publicly available. Decisions are not publicly available. The board prepares and publishes an annual report on its aggregate operations and activities.
Do appellants have complete access to claim files and information (is access right in WCB legislation or a result of Freedom of Information and Protection of Privacy Act). Is further information found in sub-files which do not form part of the claim file? And if so, are sub-files disclosed?

"Is relevancy of material in a board file a prerequisite to its disclosure to the affected worker or employer? If so, who determines whether the information is relevant and on what basis? Does the worker or employer have the right to object to the relevancy of the information after it has been disclosed?"

See interview notes on "Compensation Services and Adjudication".

6. ALTERNATIVE DISPUTE RESOLUTION

If mediation or some other form of alternative dispute resolution is used in your jurisdiction, either formally or informally, has there been any performance evaluation undertaken? Are there any studies of the effectiveness of mediation or conciliation process? Any information on the "success rate"?

There is no provision for ADR in Saskatchewan.

7. STUDIES AND STATISTICS

Are there any studies respecting client satisfaction with the appeals process in your jurisdiction. Are the results of any client satisfaction surveys publicly available?

The board has undertaken client satisfaction surveys, but not specific to the appeals area.

**Appeal Statistics:**

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<thead>
<tr>
<th>Employers</th>
<th>Workers</th>
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<tr>
<td>Total # of appeals -</td>
<td>Total # of appeals -</td>
</tr>
<tr>
<td>Allow/Disallow Rate</td>
<td>Allow/Disallow Rate</td>
</tr>
<tr>
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</tr>
<tr>
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