INTERVIEW QUESTIONS - WORKERS' COMPENSATION
INTERNAL APPEALS POLICY AND PROCESS

JURISDICTION: NEWFOUNDLAND AND LABRADOR

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:

- **Who sits on the Appeal Body?**
  The internal review unit is composed of employees of the Workers' Compensation Commission of Newfoundland and Labrador called "internal review specialists". There are five internal review specialists on staff.

- **Is the internal appeal process required by legislation?**
  The internal review process is required under the Act. A person aggrieved by a decision of the Commission can not appeal the issue to the external appeal body until they have first exhausted the internal review process. A decision of an internal review specialist is the final decision of the Commission.

2. 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 to an internal appeal? If not, what differences are there in access to appeal and the appeal process for employers and workers?**
  The same options for internal review and the same process is open to both workers and employers. Workers may apply for review on the basis of a decision made respecting their claim and an employer may apply for review on the basis of an assessment or other issue, or may be involved in terms of opposing the issue underlying a worker's request for review.
• 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?

A worker or employer must request an internal review within 90 days of the decision. However, this is not a hard and fast rule and the internal review specialists will review cases that are not put forward within this 90 day time period where there were reasonable reasons for the delay (in practice, the external review body, the Workers' Compensation Review Division, is overturning decisions of the Commission to not hear cases that exceed this time limit).

Internal review specialists are subject to a six month time limit for reviewing the issue and handing down their decision, which is the final decision of the Commission. The government has recently introduced a 90 day turnaround for internal review specialists to render their decision. (At present, the internal review unit is taking just under 100 days on average to render a decision).

• What is the nature of decisions allowed for internal appeal?

Any decision of the Commission may be referred to internal review.

3. 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 is the model used by the internal review unit.

Is the internal review a review and reconsideration of information in the files or are oral hearings held? Is the original adjudicator interviewed as part of the internal review process?

The internal review process is a desk review or audit of the file; oral hearings are not generally held, unless the appellant requests an oral hearing.

An internal review specialist may interview the adjudicator or decision maker but this is not specifically required as part of the review process.

Are the results of the decisions of the internal appeal body public? Is the internal appeal body required to report publicly on its activities?

Internal review specialists are required to prepare a written decision for the person requesting the review, but decisions of internal review specialists are not made public. There is no requirement to report publicly on an aggregate basis the number of internal reviews, though this information is monitored at an internal level.
Do appellants have complete access to claim files and information in the internal review process (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 that do not form part of the claim file? And if so, are sub-files disclosed?

Information is provided on a routine basis to individuals requesting a review of a decision of the Commission made in respect of them or in which they have an interest.

"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 above.

4. STUDIES AND STATISTICS

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

No studies have been undertaken.

Statistics:

1997 - Total Internal Review Issues Finalized - 1,082  
Percentage Overturned - 13.1%

1996 - Total Internal Review Issues Finalized - 831  
Percentage Overturned - 22%