

Understanding the Reconsideration Process

For workers

What is reconsideration?

Reconsideration is a review of the written record of a workers' compensation insurer's claim closure. The Workers' Compensation Division (WCD) does this review. Oregon law requires workers or insurers who think the Notice of Closure is not correct to request reconsideration as the first level of appeal.

How long do I have to ask for reconsideration?

You must request reconsideration **within 60 days** of the mailing date on the Notice of Closure.

How long does the insurer have to ask for reconsideration?

The insurer must make its request **within seven days** of the mailing date on the Notice of Closure. The insurer can only ask WCD to look at the impairment findings used to decide how much permanent disability you received.

How do I request reconsideration?

You must ask for reconsideration by mail, fax, phone, or hand delivery. To make your request by mail, you can get the form you need — Worker Request for Reconsideration ([Form 440-2223a](#))— from wcd.oregon.gov. Send the completed form to WCD Appellate Review at the address on the form. To ask for reconsideration by phone or to get help completing the form, call Appellate Review, 503-947-7816.

Important

- » WCD staff members must look fairly at all sides and can answer questions or give you information, but they cannot provide legal advice. If you need legal

advice, contact a lawyer who specializes in workers' compensation law.

- » If you apply for and accept lump-sum payment for any part of your permanent disability award, you give up your right to appeal the amount of the award.

What happens after I request reconsideration?

When you ask for reconsideration, WCD sends a letter to the parties — you, your lawyer (if you have one), the insurer, and the insurer's lawyer (if it has one). The letter tells everyone that WCD received the request and started the process.

What happens if the insurer requests reconsideration?

If the insurer asks for reconsideration, WCD sends a letter to all the parties, but the process does not start until 60 days after the mailing date on the Notice of Closure **unless**:

- » You also ask for reconsideration ("cross request") or
- » You tell WCD that you do not want to request reconsideration and the process can begin

If you ask for reconsideration or tell WCD that the process can start, WCD sends the parties another letter saying that the process is starting and telling the insurer to send a copy of your file to the parties and WCD.

Then what happens?

Once the process begins, these are the next steps:

- » If WCD needs more information, the division sends a letter to the parties telling them what is needed. This may extend the reconsideration process up to an additional 60 days.

- » If you have anything you want WCD to look at as part of the review, you need to submit it as soon as possible, after you ask for reconsideration.
- » If you ask for a medical arbiter exam or if WCD needs information from a medical arbiter, WCD schedules the exam and sends you a letter about the appointment.
- » If WCD schedules a medical arbiter exam and you are not able to attend, you need to call WCD to set up another time. If you do not attend the exam or do not call WCD to reschedule, your benefits may end or be delayed.
- » WCD issues an Order on Reconsideration as soon as possible after it receives the report from the medical arbiter exam.

How long does the reconsideration process take?

- » If no one asks for a medical arbiter exam and everyone sends in all the information needed, WCD may issue an Order on Reconsideration within 18 working days after the process starts.
- » If WCD schedules a medical arbiter exam or asks for more information, the review may take up to 60 calendar days or longer. If this happens, WCD will send a Notice of Postponement to the parties.

What if I disagree with the medical reports used to close my claim?

- » If you disagree with medical reports or the rating of permanent disability and are not asking to have a medical arbiter exam, mark that box on the form.
- » Send WCD and the insurer a letter saying why you think the medical information was incorrect or incomplete.
- » Send copies of any missing reports to WCD and the insurer as soon as possible. Remember, reconsideration is a review of the written record, so everything you want WCD to look at must be submitted in writing.

WORKER PROTECTION



Department of Consumer
and Business Services

What if I disagree with the Updated Notice of Acceptance the insurer sent when it closed my claim?

If you think there was an error on the Updated Notice of Acceptance sent with the Notice of Closure, you must send the insurer a letter saying that you don't agree and why.

What if I disagree with the impairment findings used to close my claim?

Mark the box on the Worker Request for Reconsideration form that says you disagree with the impairment findings and want a medical arbiter exam. A medical arbiter exam is a physical exam done by a doctor WCD chooses to help settle disputes about permanent impairment. In initial injury claims, the doctor looks at conditions the insurer had accepted when the claim was closed and other conditions caused by the work injury. In claims for new or omitted conditions, worsened conditions, or occupational diseases, the doctor's review is limited to conditions accepted by the insurer. The medical arbiter's role is only to offer information about your impairment. The doctor will not treat you. If you want to know more about the medical arbiter exam, refer to the "[What is a medical arbiter examination?](#)" at wcd.oregon.gov or call WCD at 503-947-7816 to ask for a copy of the brochure.

Do I get a hearing in front of the WCD reviewer?

No. The process to reconsider a Notice of Closure is informal and looks only at the written record. It is not a hearing. You may talk to the person doing the review about the process and send a letter explaining why you disagree with the closure. You can ask anyone to write something to help tell your side of the story. You also can send a deposition (testimony you give under oath and written down) to back up your points. Reconsideration is the last chance you have to share new information about your claim.

WCD also may contact the parties to talk about coming to an agreement. Completing the reconsideration this way is called Alternative Dispute Resolution (ADR). Doing this **does not** change the amount of time allowed for the reconsideration process. The WCD reviewer will issue an Order on Reconsideration when the dispute is resolved or when they have completed reviewing all the records.

Sample statement:

I was working as a server when I was injured. I have returned to work as a cashier. My hours have been cut back to only 34 hours a week, and I was working 40 hours when I got hurt. My doctor told me I would probably need more surgery. I am still seeing my doctor and had an appointment on June 23. My doctor sent me for more physical therapy. My claim should stay open because I still need medical care and am unable to return to my regular job. There is an error in the paperwork, in that I didn't graduate from high school and I don't have a GED.

What is an Order on Reconsideration?

After looking at all the information, the WCD reviewer issues an order that addresses whether the claim was closed correctly and other issues raised by the parties. It is an important legal document that records the decisions the WCD reviewer made and why.

Can my benefits - temporary or permanent disability - be lower after reconsideration?

Yes, they can. Reconsideration is a review of claim closure information, so your benefits could go up, down, or stay the same, depending on the issues raised by the parties.

What is premature closure?

It means the insurer closed the claim too soon because you weren't medically stationary or there was not enough information.

What does medically stationary mean?

It is a term used by people in workers' compensation to mean that more time or treatment is not likely to help you get better.

What are the temporary disability dates on the Notice of Closure?

These are dates your doctor said you were not able to work (temporary total disability or TTD) or were able to do only part of your usual job (temporary partial disability or TPD).

What are impairment findings?

They are a medical description of your loss of use or function (strength, range of motion, etc.) due to the compensable injury. The insurer compares them to Oregon laws

and rules to determine your permanent disability, if any. They are also one of the things WCD uses to decide if the insurer was correct when it rated your permanent disability.

What if I disagree with the Order on Reconsideration?

You — or the insurer — can ask for a hearing at the Workers' Compensation Board (WCB). The request for a hearing must be made within 30 days from the date of the Order on Reconsideration. Submit your hearing request to:

Workers' Compensation Board
2601 25th St. SE, Suite 150
Salem, OR 97302-1280

Instructions for filing a request for hearing are available on the WCB website: oregon.gov/wcb.

Important things to remember

- » If you disagree with your claim closure, you must ask for reconsideration **within 60 days** of the mailing date on the Notice of Closure.
- » Any future disputes can be based only on the information WCD looked at during the reconsideration process. So, reconsideration is the last chance you have to send in new information for review.
- » You can get help from WCD by calling Appellate Review at 503-947-7816 or Benefit Consultation at 800-452-0288 (toll-free).
- » To ask for reconsideration, send your request to:

Workers' Compensation Division
Appellate Review
350 Winter St. NE
P.O. Box 14480
Salem, OR 97309-0405

- » WCD website: wcd.oregon.gov
- » You also can get help from the **Ombuds Office for Oregon Workers**, which will explain your rights, the appeal process, and other benefits you may be able to get. Call the ombuds at 503-378-3351 or 800-927-1271 (toll-free).
- » Although you can go through the reconsideration process without an attorney, you have the right to talk to one about your case.

