

**ALBERTA
INFORMATION AND PRIVACY COMMISSIONER**

**Report on the Investigation into Complaint
Regarding the Use of Personal Information
by a Public Body**

November 23, 1998

Workers' Compensation Board

Investigation #1461

The Complaint

On July 27, 1998, the Office of the Information and Privacy Commissioner received a written complaint concerning the Workers' Compensation Board (the "WCB"). The Complainant indicated that the WCB was using medical information that was irrelevant to the Complainant's WCB claim.

The Commissioner authorized an investigation pursuant to section 51(2)(e) of the *Freedom of Information and Protection of Privacy Act* (the "FOIP Act") which states:

51(2) Without limiting subsection (1), the Commissioner may investigate and attempt to resolve complaints that

(e) personal information has been collected, used or disclosed by a public body in violation of Part 2.

This report outlines the findings of the Portfolio Officer assigned to investigate this case.

Application of the Act

Under section 1(1)(n)(vi) of the FOIP Act, information about an individual's health and health care history is "personal information". Therefore, the collection, use and disclosure of that information is subject to the provisions of the FOIP Act.

Investigation

A copy of the Complainant's letter to the Office of the Information and Privacy Commissioner was forwarded to the WCB on July 27, 1998. Upon receipt of this letter, WCB reviewed the Complainant's claim file and decided that the Complainant's claim file did contain medical information not relevant to the adjudication of the Complainant's claim.

On August 18, 1998, WCB wrote to the Complainant to advise the following:

“All medical information not directly relevant to making an entitlement decision regarding your right hand problems will be removed from your claim immediately. We will retain only that information which addresses your difficulties with your right hand”.

Subsequently, I requested that WCB provide me with a copy of the Complainant's claim file for review to confirm the actions noted in its August 18, 1998 letter have been undertaken. In reviewing the Complainant's claim file, I noted that:

- Information had been deleted from the Complainant's claim file; and
- There were notations on file that documents have been “modified” to remove “irrelevant personal information about the claimant”.

However, I also noted that some “irrelevant personal information” had not been removed from the Complainant's claim file.

I met with WCB representatives on November 19, 1998 and was informed of the following.

1. WCB advised that it conducted another review of the Complainant's entire claim file prior to our meeting. As a result of this recent review, WCB identified “irrelevant” medical information that should have been removed as per its August 18, 1998 letter. WCB acknowledged that this information was missed in the initial review.
2. WCB indicated it is seriously considering a review of the entire claim file as a standard practice whenever it receives a request to modify personal information in a claim file. The current practice is that WCB would only review and modify documents specifically identified.
3. WCB stated it has recently adopted a practice of notifying claimants of any modifications to documents on a claim file. WCB will also notify other parties if these parties had been provided copies of documents before the modification have been made (e.g. injured worker's employer, the Claim Services Review Committee, the Appeals Commission). All parties would receive a copy of the modified document and would be asked to replace the previously disclosed document with the modified one.

Conclusion

Based on the information gathered during the investigation and a review of the Complainant's claim file, I am satisfied that WCB has addressed the concern identified by the Complainant.

As noted in its August 18, 1998 letter, personal information considered by WCB as irrelevant to the adjudication of the Complainant's claim was removed from the claim file. Due to human error, some irrelevant personal information was missed. However, during the investigation of this case, this information has been identified and removed. WCB advised it will be notifying the Complainant of the modifications to the Complainant's claim file and will provide the Complainant with copies of the modified documents.

Recommendation

I recommend that this report be forwarded to both the Complainant and WCB and that the file be closed with no further action being taken.

Submitted by,

Marilyn Mun
Portfolio Officer