

Procedure: 71.00

Subject: Annotation of Personal Health Information

71.00 Introduction

WorkplaceNL collects, uses and discloses personal health information in order to exercise its authority under the Workplace Health, Safety and Compensation Act. This is described in Policy GP-01 Information Protection, Access and Disclosure.

Under the Personal Health Information Act (PHIA), individuals have a right to request correction of their personal health information if they believe it is inaccurate or incomplete. This procedure provides guidelines for employees to follow when an injured worker requests a correction of personal health information in a WorkplaceNL record but this request is not granted.

This procedure does not apply to correcting or disagreeing with the decisions of WorkplaceNL. If an employer or an injured worker disagrees with a decision, they may apply for a review of that decision under Policy AP-01 Internal Review.

This procedure only applies to the Claims Services and Health Care Services departments of WorkplaceNL as they are the primary holders of health information.

71.01 Definitions

Personal health information: Recorded health information about an individual such as details about an individual's physical or mental health, the provision of health care, the identity of health care providers, registration information (e.g., MCP number), prescriptions for drugs and health care devices, or the identity of an authorized representative.

Custodian: An individual or organization that has custody or control of personal health information as a result of performing their duties.

Factual error: A mistake or missing information that involves verifiable details. Possible examples include an inaccurate MCP number, a typo in a report, medication not listed.

Annotation: A letter that is added to an injured worker's file that contains the wording of a correction request that was refused. Annotation is only required if WorkplaceNL refuses a correction request. WorkplaceNL must annotate records that it created and those created by other custodians.

71.02 Grounds for Refusing Correction Requests

Section 62(1)(b) of PHIA states that requests for correction may be refused if:

- (i) The record was not originally created by the custodian and that custodian does not have sufficient knowledge, expertise and authority to correct the record;
- (ii) The record consists of a professional opinion or observation that was made in good faith; or
- (iii) There are reasonable grounds that the request is frivolous or made in bad faith.

As per section 62(1)(b) of PHIA, WorkplaceNL will not correct records created by other Custodians (e.g., Physicians, Physiotherapists, Chiropractors, Occupational Therapists (OTs), Massage Therapists, Psychologists, Counsellors).

In addition, decisions made by WorkplaceNL employees will not be corrected under this procedure. An example is the following:

- a) An injured worker receives a suitable employment and earnings decision letter from their Case Manager. After reviewing the letter, they do not agree with the occupation that was chosen as suitable, as they feel their leg injury prevents them from standing and walking for long periods of time. In this case, the appropriate avenue for the worker would be to request a review under policy AP-01 Internal Review.

71.03 Directing Correction Requests to Other Custodians

In certain circumstances, an injured worker may notice a factual error in a record not created by WorkplaceNL, or disagree with the opinion or observation of a medical professional that is not employed by WorkplaceNL. In these cases, the injured worker is directed to the original custodian of the personal health information (e.g., Physician, Physiotherapist, Chiropractor, OT, Massage Therapist, Psychologist, Counsellor) to discuss the issue.

71.04 Refusing a Correction Request: Annotating a Record

Annotation is only required if a correction request is refused. It must be completed within 30 days of receiving the correction request. In certain circumstances, an extension of an additional 30 days may be possible, such as when meeting the original 30-day deadline would unreasonably interfere with operations, or the information is located in multiple records.

The following protocol must be followed when a request for correction is refused:

- Create a letter (i.e., annotation) which:

- Identifies the record and specific personal health information that the worker believes is incorrect;
 - Directly states the correction they requested;
 - Provides the reason(s) for the refusal;
 - Provides the contact information for the Office of the Information and Privacy Commissioner (OIPC) of Newfoundland and Labrador and explains the right to request a review of the refusal;
 - Informs the worker of their right to appeal the refusal to the Supreme Court of Newfoundland and Labrador, Trial Division; and
 - Includes other public bodies or third parties that received the information in the 12 months preceding the correction request in the carbon copy (cc) field. These parties do not have to be included if it is determined that the annotation will not have an impact on the provision of health care or benefits, or the worker advises it is not necessary.
- Send the letter to the injured worker, authorized representative (if applicable) and other relevant parties if required and provide a copy to the WorkplaceNL Privacy Analyst.

Examples of refused correction requests which must be annotated:

- a) An injured worker disagrees with the opinion of a WorkplaceNL Medical Consultant who has reviewed their claim and requests a correction (WorkplaceNL is the custodian in this case). The employee managing the file may refuse this request as it is a professional opinion that was made in good faith.
- b) An injured worker disagrees with the diagnosis made by their Psychologist which was sent in a letter to WorkplaceNL. They contacted their Case Manager to voice their concern. The Case Manager directed them to contact the Psychologist who made the diagnosis to discuss this issue. The worker called the Case Manager after this discussion and formally requested the record still be corrected by WorkplaceNL. The Case Manager can refuse this request as WorkplaceNL did not create the record and it consists of a professional opinion that was made in good faith.
- c) An injured worker disagrees with a diagnosis made by a Physician which was sent in a report to WorkplaceNL. The worker called their Case Manager and stated that the diagnosis is incorrect. The Case Manager directed them to contact the Physician who made this diagnosis to discuss their concerns. The worker called the Case Manager back the next day and insisted that this diagnosis be corrected by WorkplaceNL. The Case Manager can refuse this request as WorkplaceNL did not create the record and it consists of a professional opinion that was made in good faith.

Note: Requests for correction involving personal information under the Access to Information and Protection of Privacy Act (ATIPPA) will be directed to the WorkplaceNL ATIPP Coordinator.

Reference: Personal Health Information Act
Access to Information and Protection of Privacy Act, 2015
Workplace Health, Safety and Compensation Act
Policies: AP-01 Internal Review
GP-01 Information Protection, Access and Disclosure

Amendment History

Original Effective Date 2022 01 11