



Reconsideration Requests

All requests for reconsideration of a decision of the Social Benefits Tribunal will be considered on a case by case basis to determine if another hearing is warranted.

The Social Benefits Tribunal exercises its discretion to allow for reconsideration hearings where a serious error or omission has occurred, while discouraging unnecessary requests. In exercising its discretion to grant reconsideration hearings the Tribunal balances the public interest in preserving the finality of Tribunal decisions with the need to address substantive problems in decisions of the Tribunal without the need for a further appeal to court or judicial review.

The Tribunal strives to conduct hearings as efficiently as possible while maintaining a process that is accessible and fair.

1. Effective Date

This Practice Direction is effective March 1, 2004.

2. Legislation

- 2.1 Section 21.2 of the Statutory Powers Procedure Act
- 2.2 Section 79, O.Reg. 134/98 Ontario Works Act, 1997
- 2.3 Section 68, O.Reg. 222/98 Ontario Disability Support Program Act, 1997

3. Requests To Reconsider a Decision

- 3.1 Any party to a decision of the Social Benefits Tribunal may request a review of that decision. The Tribunal's practice regarding reconsideration requests does not apply to interim assistance decisions. Nor does it apply to any decision of the Tribunal that is not a final determination of the substantive issues on appeal except in exceptional circumstances.

4. Time Limit For Filing a Reconsideration Request

- 4.1 A request for reconsideration shall be made to the Tribunal within 30 days of the receipt of the final decision. No request for reconsideration may be made more than one year after the decision.
- 4.2 A request for reconsideration may be made after the 30-day deadline if the requester satisfies the Tribunal that there are apparent grounds for a reconsideration and that there are reasonable grounds for failing to file the request in time.
- 4.3 A party who requests a reconsideration hearing after the 30-day deadline shall explain in writing why the deadline should be extended including the reason for not making the request earlier.
- 4.4 The Tribunal may extend the time for requesting a reconsideration up to one year from the decision.

5. How To Request a Reconsideration of a Tribunal Decision

- 5.1 A request to reconsider a decision shall be made in writing using the prescribed form “Application for Reconsideration” and shall be signed by the person making the request.
- 5.2 Where a party is unable to obtain an “Application for Reconsideration” form, the Tribunal may accept a written request for reconsideration that is not in the prescribed form.
- 5.3 A request for reconsideration shall include:
- the Tribunal’s file number
 - the name, address and phone number of the person requesting the review
 - the reasons why a new hearing should be granted

6. Scope of Reconsideration Review

- 5.4 The requesting party shall give a copy of the request to the other parties in the original proceeding at the same time that it is filed with the Tribunal.
- 5.5 The other parties may respond to the request for reconsideration within 15 days after receiving the request for reconsideration. The responses shall be given to all other parties and filed with the Tribunal.
- 5.6 The Tribunal shall issue its decision as to whether to hold a reconsideration hearing in writing.
- 5.7 The decision as to whether to hold a reconsideration hearing shall be issued not sooner than 20 days after the request is made and not more than 60 days after the request is made.
- 6.1 Except in exceptional circumstances the Tribunal will only review a final decision that determines issues raised in the appeal before the Tribunal.
- 6.2 When deciding whether to grant a reconsideration hearing the Tribunal will take into account such factors as whether the Tribunal:
- acted outside its jurisdiction
 - violated the rules of natural justice or procedural fairness
 - made a serious error in law
 - did not have access to new evidence that would have had a material effect on the decision. The Tribunal must be satisfied that the evidence sought to be introduced, could not have been obtained by reasonable diligence for the original hearing. This also includes evidence that has come into existence after the original hearing.

7. Reconsideration Hearings

- any other substantial ground relevant to the decision.

6.3 The Tribunal will consider the reason that evidence or argument was not raised at the original hearing. In the case of a party who did not attend the first hearing, the Tribunal will consider the reason for the party's absence.

7.1 If a reconsideration hearing is granted the Tribunal will send the parties a Notice of Hearing providing the date, time and place of the reconsideration hearing.

7.2 The Tribunal may assign any Member, other than the Member who made the original decision, to conduct the reconsideration hearing. If the original decision was made *in absentia*, then any Member of the Tribunal may hear the reconsideration.

7.3 It may not always be necessary for the Tribunal to hold a completely new hearing. Rather the hearing may be limited to the issue for which the reconsideration was granted.

7.4 If a limited reconsideration is granted the Tribunal may assign the original Member to hear the reconsideration hearing.

8. Subsequent Request For Review

8.1 The Tribunal will not grant further requests for reconsideration from the same party unless there are exceptional circumstances. For example, a failure to grant a subsequent reconsideration would result in serious procedural or substantive unfairness to a party.