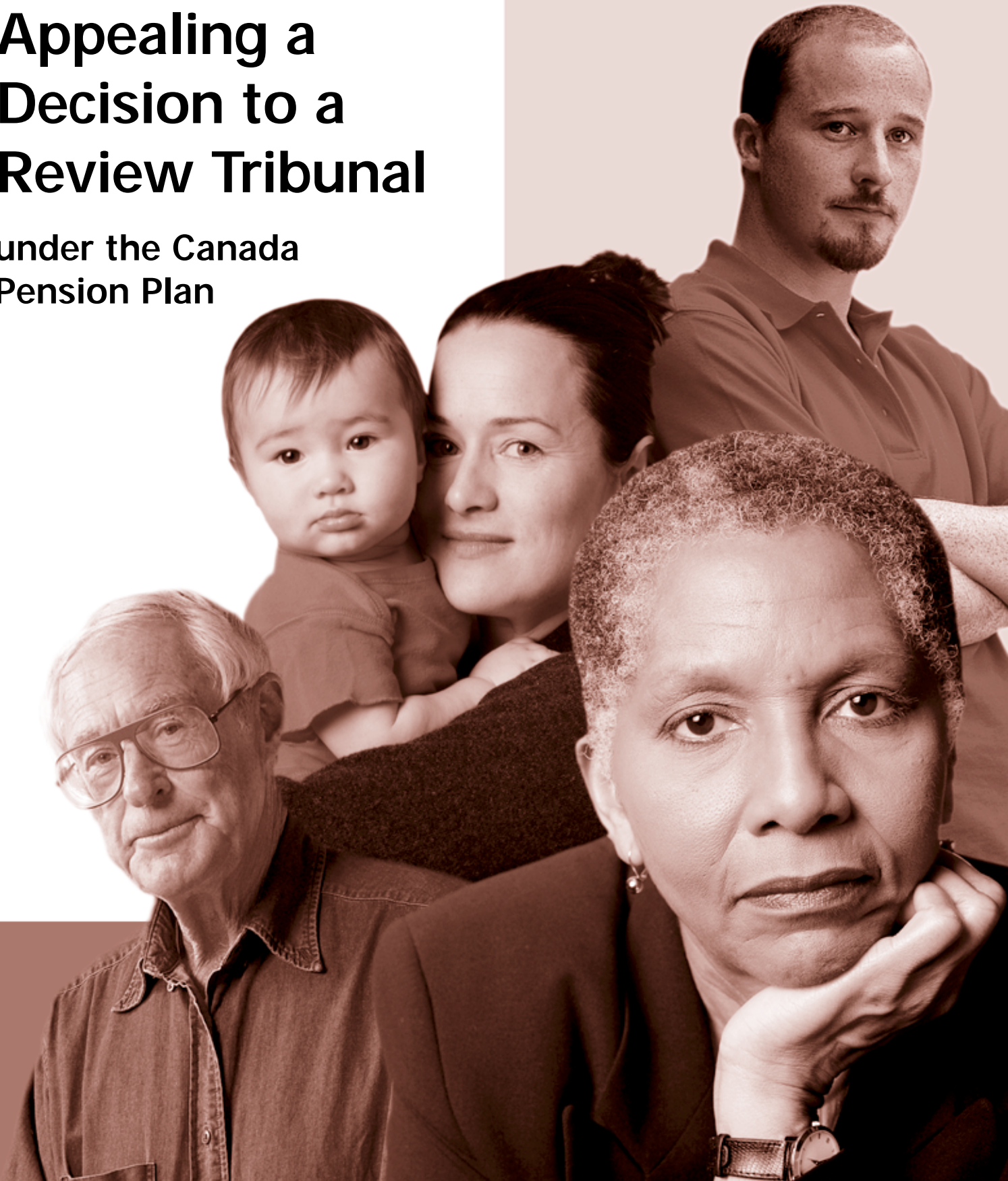


# Appealing a Decision to a Review Tribunal

under the Canada  
Pension Plan



Office of the Commissioner of Review Tribunals  
Canada Pension Plan/Old Age Security

Bureau du Commissaire des tribunaux de révision  
Régime de pensions du Canada/Sécurité de la vieillesse

Canada

**Now that you have** appealed to a Review Tribunal, **this booklet** will help you prepare for your appeal.

If you have more questions after reading this booklet, contact us at the Office of the Commissioner of Review Tribunals CPP/OAS:

**By telephone:** 1 800 363-0076 (free of charge)

**By fax:** 1 613 941-3348

**By mail:** Office of the Commissioner of Review Tribunals  
CPP/OAS  
P.O. Box 8250, Station T  
Ottawa, ON K1G 5S5

**E-mail:** [info@ocrt-bctr.gc.ca](mailto:info@ocrt-bctr.gc.ca)

**Do not** include your Social Insurance Number or other personal information in your e-mail because your message can be intercepted and read by a third party.

**Do** include your name, address and telephone number so that we can contact you.

**Internet:** [ocrt.gc.ca](http://ocrt.gc.ca)

Available in alternate format

Produced by:

Office of the Commissioner of Review Tribunals  
Canada Pension Plan/Old Age Security

Januay 2001

Aussi disponible en français sous le titre

“Appel d’une décision auprès d’un tribunal de révision aux termes du Régime de pensions du Canada.”

ISBN 0-662-29730-X

Cat. No. HP24-1/2001E

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## Who we are

### **The Office of the Commissioner of Review Tribunals**

When you appeal a reconsideration decision made by the Department of Human Resources Development Canada (HRDC), we—the Office of the Commissioner of Review Tribunals (OCRT)—receive your appeal letter.

**The Office of the Commissioner of Review Tribunals is completely separate from Human Resources Development Canada.** We will make the arrangements for your appeal to be heard by a Review Tribunal. We fix a date, time and place in Canada for your hearing that are suitable to you, the representative of the Minister of Human Resources Development Canada and any other person who is a party to your appeal.

### **The Review Tribunal**

A Review Tribunal is made up of three persons chosen by the Commissioner from among the members of the Review Tribunal panel. The Review Tribunal panel consists of appointed persons from every region in Canada.

The chairperson of the Review Tribunal is a lawyer. If your appeal is regarding a disability benefit, one of the three members will be a qualified health care professional. The other person will be a community member.

A Review Tribunal is an independent and impartial body that will take an entirely new look at the issue of your entitlement to a Canada Pension Plan (CPP) benefit. The Tribunal will take into account all the information provided by you and the other parties, regardless of whether that information was available at earlier stages of decision-making.

However, a Review Tribunal can only make decisions in accordance with the Canada Pension Plan legislation. It has no power to change the legislation or to make decisions solely on compassionate grounds. Nor does a Review Tribunal have the power to correct a situation caused by the Department's administrative error or wrong advice.

## Appealing to a Review Tribunal

To be successful in your appeal, you need to prove your entitlement to a Canada Pension Plan (CPP) benefit. It is up to you to make sure there is enough information before the Tribunal to support your case. You must also make any arrangements necessary to obtain that information before the hearing.

### Presenting your case

You may present your own case before the Tribunal. The hearing is informal and will be conducted in your choice of English or French.

If you wish, a family member or friend may attend your hearing to help you present your case, or simply to accompany you. You can also bring witnesses—“people who are in a position to provide evidence on the facts of your case.”

## You think you may be entitled to a CPP disability benefit

To be eligible for a CPP disability pension, you must demonstrate that you have a severe and prolonged physical and/or mental disability and that you were disabled at a time when you met the minimum contributory requirements. For CPP purposes, a person is severely disabled if they are “*incapable regularly of pursuing any substantially gainful occupation.*” A disability is prolonged if it is “*long continued and of indefinite duration or is likely to result in death.*”

When you applied for disability benefits you were asked to provide the following information:

- (i) a report of any physical or mental impairment, including
  - the nature, extent and prognosis of the impairment
  - the findings upon which the diagnosis and prognosis were made
  - any limitation resulting from the impairment
  - any other pertinent information, including recommendations for further diagnostic work or treatment
- (ii) a statement of your occupation and earnings from the time you became disabled
- (iii) a statement of your education, employment experience and activities of daily life.

It is up to you to provide our office with any updated information that you believe supports your case.

This information could include:

- historical and up-to-date medical records
- x-ray and laboratory reports
- assessments from a Workers’ Compensation Board or similar body
- functional evaluations.

To show that you contributed the minimum required to qualify for benefits, you could provide further earnings information such as T4 slips, or statements of contributory salary and wages from your employer.

Although it is not required, you are entitled to be represented at your own cost. Anyone you choose can be a representative. Before retaining a representative you should be clear about the fees that they may charge.

### **Let us know right away if you get a representative**

If you decide to ask a representative to help you present your case to the Tribunal, you should make the arrangements immediately, so your representative will have time to prepare for the hearing. Then **let us know right away**. We cannot communicate with your representative about your appeal unless you provide written authorization.

Write us a letter to tell us you have authorized someone to represent you, and give us your representative's name, address and telephone number. Remember to include your Social Insurance Number in all correspondence with us. You can send us this letter by mail or by fax. Once we have this information, we will deal directly with your representative. We will send any more information about your case directly to your representative and send you copies.

### **If you have asked a representative to help you present your case to the Tribunal**

- Write to us right away to tell us your representative's name, address and telephone number.
- Send us your letter by mail or by fax.

**By mail**      Office of the  
Commissioner of  
Review Tribunals  
CPP/OAS  
P.O. Box 8250,  
Station T  
Ottawa, ON  
K1G 5S5

**By fax**      1 613 941-3348

- Remember to sign your letter.
- Be sure to include your Social Insurance Number.

OCRT

## How we get information about your appeal

### **We need all the information available about your case**

When you wrote to tell us that you wanted to file an appeal, **this was the first time** we heard about your case. We are **not** involved in an individual's application under CPP unless there is an appeal. That's why we need to receive all the necessary documents from the Department and from you.

### **We ask for your file**

We ask Human Resources Development Canada to send us copies of all the relevant papers they used when they made their decision on your case.

The package we receive from the Department will include copies of information or papers submitted by you or obtained by the Department when you applied and requested a reconsideration of your case, such as your:

- Canada Pension Plan application
- birth and marriage certificates
- medical information including laboratory or x-ray reports
- written opinions of independent medical consultations
- record of earnings and contributions to the Canada Pension Plan
- decision letters.

We receive these documents within 20 days of requesting them.

### **Other people may be affected by your appeal**

When Human Resources Development Canada sends us copies of your papers, they will let us know if there is anyone else who might be affected by the decision in your case. For example, if the appeal is regarding a survivor's pension, a credit split or pension sharing, a spouse, former spouse or common-law partner may be directly affected by the decision of the Review Tribunal. Such a person is called an "added party."

If there is an added party who could be affected by the appeal, we will write to the added party and advise them that they can send us any documents or evidence they have to support their position in the appeal. At the same time, they are informed of their right to come to the hearing and present their position. The added party will also receive a copy of the documents relating to the appeal.

Of course, you will receive a copy of any papers submitted by an added party.



## Send us your evidence

Be sure to send us anything that you or your representative think might help your case. We will send copies to the Tribunal members, to the Department and to any added party before the hearing.

## Send us all the information you have to support your appeal

- Send us any materials you have that might help your case.
- Be sure to include your Social Insurance Number.

## How your appeal works

Shortly after we receive the papers from Human Resources Development Canada, we will send you a letter confirming the hearing.

### We let you know when your hearing will take place

In this letter, we will advise you—and your representative, if you have one—when and where your hearing will take place. We usually plan the hearing approximately three to four months from the date we send you this letter. This will give you time to prepare for the hearing.

### If you cannot attend your hearing on the scheduled date

- Call us right away to let us know.

You have only **two weeks** from the time you receive our letter to change the date and time of your hearing.

If you cannot make it to the hearing on the date and time we have scheduled, call us to let us know **no later than two weeks after you receive this letter**. After that time, **we may not be able to change the date or time of the hearing**.

### **When you receive the Hearing Case File**

- Review the file carefully.
- Make sure it is complete.
- Note any information that supports your case and that you want to tell the Tribunal about.
- Decide if you need to get more information to support your case.

Get any additional information **before** your hearing.

With this letter, we will also enclose a Hearing Case File. The Hearing Case File contains copies of all the papers we received from you, from the Department and any added party. With the Hearing Case File, you will have the complete file that will be used at your hearing.

After you review the Hearing Case File, you may decide you want to have a representative help you with your appeal. If so, you should inform us in writing right away that you have authorized someone to be your representative.

If you want the Tribunal members to look at additional information, such as medical reports or other papers like T4 slips or statements from your employer, **besides** the ones in your Hearing Case File, make sure you **or** your representative send them to us right away. We will make sure they are copied and sent to everyone involved in the appeal, so they can review the information in advance.

### **If you decide you want a representative**

- Find a representative right away.
- Give that person all the information we have sent you.
- Write to us right away to let us know that you have authorized someone to represent you.

Send us your signed letter by mail or by fax.

### **We will contact you to make sure you are ready for your hearing**

Well before the hearing, one of our counsellors will call you. Since it is very important for you to be ready for your hearing, our counsellor will also ask you if you are prepared and if you understand what will happen at the hearing.

Feel free to ask any questions you may have about:

- the legislation that affects your case,
- what happens at the hearing,
- how you can get the most from the hearing, and
- what you need to do to present your case as well as possible.

During this telephone call, our counsellor will also ask you if you have any travel needs or other special needs.

For example, if you use a wheelchair to get around, the hearing will be held in a building that you can enter easily. If you have trouble speaking English or French, we will have someone at the hearing who can translate for you.

**When we call about your hearing, you can ask us about:**

- the legislation that affects your case
- your travel expenses
- wheelchair access or other special needs
- translation into a language other than English or French
- payment for photocopying expenses.

About one month before the hearing, you will receive another letter reminding you of the date, time and place of the hearing.

**We may call you if a hearing date becomes available on short notice**

If your hearing has not been scheduled and a hearing date becomes available on short notice, we may call you or your representative to give you the chance to schedule your hearing for that date. During this call, our counsellor will answer any questions you might have.

If you are ready to present your case to the Tribunal and you agree to the date, our counsellor will confirm your hearing date at that time. Once it is confirmed, you cannot change the hearing date. At least 20 days before your hearing, you will receive your Hearing Case File and a letter confirming the date, time and place of the hearing.

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## **We make it as easy as possible for you to attend your hearing**

### **The hearing will be as close to where you live as possible**

Whenever possible, our hearings are held in a meeting room that is in or near your home community.

### **We will help with some costs**

If you have to travel some distance to the Tribunal hearing, we will pay for any of your reasonable travel or accommodation costs, as long as **we have approved them ahead of time.**

Be sure to speak to someone at our office to see what costs we cover, and to have us make your travel or accommodation reservations for you.

To get any of your expense money back, you must send us the **original receipts** for your costs.

**Please note** that we do **not** pay for loss of income, professional fees, the costs of obtaining medical reports or other evidence, or the travel costs of any of your family members or friends, your representative, or anyone else who is helping out with your case or giving evidence for your case.

You will be sent an expense claim form to help you claim permitted costs.

### **What to do if you obtain new information before your hearing**

If you obtain more information that you think is important to your case, send it to our office. If we receive the information more than two weeks before your hearing, we will make sure that copies are provided to the Tribunal members and the other parties to the appeal.

We cannot guarantee that copies will be provided to them if we receive it from you less than two weeks before the hearing. In this situation, we ask you to send a copy to us and, that you bring four extra copies of this information to the hearing.

We will pay for any **reasonable** costs for you to photocopy these papers to bring to the hearing, if you give us the original photocopying receipts.

If you have lots of new papers to be copied, call us for instructions on what to do.

## How your hearing works

Before the hearing, the Tribunal members will read the Hearing Case File to become familiar with your case. In this way, they will be ready to hear your appeal.

### **Your hearing is private and confidential**

Your hearing is private and confidential. It is closed to the public. So make sure you say everything that supports your appeal.

Unless they are considered to be witnesses, the only people who will hear what you have to say will be the people you have asked to attend to support you, the Tribunal members, any added party and their representative, and a person from Human Resources Development Canada who will be there to explain their decision. Any witnesses will be asked to stay out of the hearing room except for the time they are giving evidence unless the Tribunal chairperson decides otherwise.

### **What happens at your hearing**

The Review Tribunal chairperson will usually begin by explaining to everyone how the hearing will be organized and how you (or your

representative) and the person from Human Resources Development Canada can present evidence. The Department usually presents a written explanation of the reasons for their decision. The Tribunal members will take time to read and understand any new information that you or the Department brought to the hearing before they continue.

During the hearing, the members may ask you questions about the facts in your case. They may question your representative, if you have one, or witnesses who have given evidence about the facts in your case.

### **Everyone gets a chance to ask questions**

Everyone will have lots of opportunity to explain things or to ask questions about the evidence. All questions are asked through the chairperson. Members of the Review Tribunal may also, and usually do, ask questions.

### **If you or someone else doesn't show up for your hearing**

If someone who is supposed to be at the hearing—you, your representative, a witness, or the person from Human Resources

Development Canada—does not show up, the chairperson will make sure that everything possible is done to get in touch with that person. If the Tribunal cannot find a good reason for the person's failure to show up, the Tribunal can decide to go ahead with the hearing.

#### **If you move**

- Be sure to inform us of your change of address and new telephone number, or provide us with a contact number and address.
- Remember to include your Social Insurance Number with all correspondence.

## **The Tribunal's decision**

The Tribunal can only make its decision on the basis of the information provided by the parties to an appeal. After everyone has been given a chance to present their case, the members of the Review Tribunal will meet privately after the hearing to decide on your case.

After they have made a decision on your case, the Review Tribunal will send their written decision and reasons for that decision to the Office of the Commissioner of Review Tribunals. We will send you a letter to tell you what the Tribunal decided. The Review Tribunal's decision and reasons for making that decision will be attached. In the spring of 1999, we set a service standard for you to receive the decision within eight weeks. We will strive to meet this standard.

### **Appealing the Tribunal's decision**

The Commissioner cannot change a Review Tribunal's decision. If you do not agree with the Review Tribunal's decision, you can, within 90 days of receiving that decision, ask the Pension Appeals Board to hear an appeal of your case.

This does not mean that the Pension Appeals Board will hear your case—the Board can either accept or refuse a request to hear your appeal. Human Resources Development Canada or the added party (if any) can also ask the Pension Appeals Board to hear an appeal on a Review Tribunal decision.

If the Board refuses to hear an appeal, the Tribunal's decision becomes final and binding.

## Frequently asked questions

We are often asked the following questions by people who are appealing decisions that Human Resources Development Canada made under the Canada Pension Plan.

**Q. I have been waiting for a long time. When will my appeal be heard?**

**A.** Although we were **not** involved when you made a CPP application, we will do our best to make sure that everything moves quickly for your appeal to the Review Tribunal. It usually takes about eight months from the time we receive your appeal request for a hearing to be held and for you to receive a decision.

**Q. What should I do to prepare for the hearing?**

**A.** You should read the Hearing Case File and make sure it contains everything you need to help your case. If you have a representative, go over the Hearing Case File with that person. Be sure to get any additional information you will need to support your position before the hearing.

**Q. How do I find out about the legislation that affects my appeal?**

**A.** If you have questions, call the Office of the Commissioner of Review Tribunals for assistance at 1 800 363-0076.

**Q. The papers you sent me aren't complete. I've sent more than this to the Department. Where are they?**

**A.** We sent you all of the papers we received from Human Resources Development Canada. Call us at 1 800 363-0076 to tell us which papers are missing. We will contact the Department to find out what happened.

**Q. I have new information. What should I do?**

**A.** If you have new information, you should send it to us right away. You can fax us this information at 1 613 941-3348 or mail it to our office. If it is less than two weeks before the hearing, send it to us and bring four extra copies of the new information with you to the hearing. If you have lots of papers to be copied, call us for further instructions.

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**Q. Who will be at the hearing?**

**A.** The following people may attend the hearing:

- you
- your representative if you have one
- your witnesses if you have some
- the three Tribunal members
- any added party and their representative and witnesses
- a person from Human Resources Development Canada.

**Q. Do I have to go to the hearing? Can't you make a decision without me?**

**A.** No, you do not have to go to the hearing.

Yes, the Tribunal can make a decision without you. But it is in your best interest to be there or to send a representative in case the Tribunal members have questions or need more information. You will also have the chance to present the facts of your case in person for the first time and in the best way possible.

**Q. Do I have to go to the hearing alone?**

**A.** No, you do not have to go alone. You can bring someone with you, such as a family member or a representative. Please let us know the name of your representative well in advance. If you plan to ask a representative to come to the hearing with you, we recommend that you do so well before the hearing date so that your representative has plenty of time to prepare your case.

**Q. I'm not ready for my hearing tomorrow. Can we delay it?**

**A.** No. We cannot change a hearing date once you have agreed to a date and the arrangements have been made. If you do not go to the hearing, the Tribunal may decide to go ahead without you. Call us at 1 800 363-0076 to discuss your situation.

**Q. I just found a representative, but my hearing is next week. What should I do?**

**A.** Let us know right away by calling us at 1 800 363-0076. You also should be sure to give your new representative all the information we have sent you, as well as any new information



you have given to us, so that person can be well prepared for the hearing.

**Q. What do I have to bring to the hearing?**

**A.** You or your representative should bring the Hearing Case File that we sent you. If you want the Tribunal members to look at any other papers that you did not get a chance to send to us ahead of time, bring four copies of each paper.

**Q. How long will the hearing last?**

**A.** The hearing will last as long as the Tribunal decides is necessary for everyone to be able to present their case and have their say. Everyone will be asked to deal only with the issue the Tribunal is considering. Although some are shorter, most hearings last about one hour. If the case is complicated, a hearing can last longer.

**Q. How does the Tribunal reach a decision?**

**A.** Before the hearing, each Tribunal member reviews a Hearing Case File that is exactly the same as the one you received. To make their decision, the

Tribunal members study all the information in the Hearing Case File, review any new material they received before and during the hearing, and consider everything that was said at the hearing. After the hearing, the three members meet and reach a decision based on all the evidence. The Tribunal members will then let the Commissioner of Review Tribunals know in writing what the decision is and the reasons for it. The Commissioner will write to you to tell you the decision and the reasons for it.

**Q. When do I hear about the decision?**

**A.** We always strive to meet our service standard for you to receive the decision within eight weeks.

**Q. When and how do I get paid for my expenses for my hearing?**

**A.** When we send you your Hearing Case File, we will also send you an expense claim form. After the hearing, complete the claim form and send it to our office. If you need help to complete the form, call our staff. You should receive payment by mail approximately three to four weeks after we receive the claim form in our office.

# Office of the Commissioner of Review Tribunals Time frames for Appeals

The following is an approximate schedule for the process of appealing to a Review Tribunal. As far as possible, the Office of the Commissioner of Review Tribunals strives to meet the goals set out in the following time line.

- Month 1**
- Our Office receives the appeal
  - We acknowledge receipt of your appeal and provide you with the booklet you have been reading
  - We ask the Department for your file and receive your file

- Month 3-4**
- We send you a package containing:
- a letter setting the hearing date,
  - and your Hearing Case File

**Month 4-5**                      Our counsellor calls you to answer any questions

**Month 5-6**                      You receive our reminder letter

**Month 6-7**                      Hearing

**Month 8-9**                      You receive your decision letter



## Need more information? Contact us!

If you have any other questions about appealing a reconsideration decision to a Review Tribunal, contact us at the Office of the Commissioner of Review Tribunals:

**By telephone:** 1 800 363-0076  
(free of charge)

**By fax:** 1 613 941-3348

**By mail:** Office of the Commissioner of Review Tribunals  
Canada Pension Plan / Old Age Security  
P.O. Box 8250,  
Station T  
Ottawa, ON  
K1G 5S5

**E-mail:** [info@ocrt-bctr.gc.ca](mailto:info@ocrt-bctr.gc.ca)

**Do not** include your Social Insurance Number or other personal information in your e-mail because your message can be intercepted and read by a third party.

**Do** include your name, address and telephone number so that we can contact you.

**Internet:** [ocrt.gc.ca](http://ocrt.gc.ca)

We can also answer questions about appealing reconsideration decisions under the *Old Age Security Act*.