

POLICY 16.31

Section: Aggravation and Reopening **Effective:** 12-1-08

Title: Policy 16.31 - The 90-Day Time Limit to Act on Reopening Applications **Cancels:** Policy 16.31 dated 10-1-95

See RCW [51.32.160](#) (aggravation)
Also: WAC [296-14-400](#) (reopenings for benefits)
WAC [296-15-470](#) (Self-Insurance, reopenings)
WAC [296-20-097](#) (reopenings)
Policy [16.20](#) (criteria for reopening)
Policy [16.35](#) (paying provisional time-loss)
Policy [16.40](#) (“over-seven” reopenings)
WCA Manual, [Chapter 10](#) (reopenings)
Self-Insurance WCA Manual Chapter G (aggravation)

Approved
by: _____
Brenda Heilman for the Insurance Services Policy Council

This policy applies when the department or self-insured employer receives a written application to reopen a claim. For this document, adjudicator means a department adjudicator.

- 1. The adjudicator must issue an order on reopening applications within 90 days, or the reopening is deemed granted.**
- 2. The 90-day period begins when the department or self-insured employer receives a formal reopening application or informal written request from the worker with medical documentation.**

The day after receipt is counted as day one.

- 3. The adjudicator may extend the 90 days an additional 60 days for good cause.**

An extension order can only be issued for good cause. Good cause may include but is not limited to the following:

- Inability to schedule a necessary medical examination within 90 days.
- Failure of the worker to appear for a medical examination.

- Lack of clear or convincing evidence to support a reopening decision without an independent medical examination.
- Examination was scheduled within 90 days, but additional time is needed to receive a report and make a decision.

4. If no order is issued within 90 days, a deemed granted order reopening the claim must be issued.

5. The adjudicator must advise the supervisor in writing when a claim must be reopened because a timely order was not issued.

When a claim must be reopened because an order was not issued within 90 days (or 150 days with an extension order), the adjudicator must advise the supervisor in writing of the reason(s) a timely decision was not made.

6. The 90-day period to reopen claims does not apply if an order closing a claim or denying reopening is not final.

An order is not final if:

- It is on appeal to the Board of Industrial Insurance Appeals (BIIA) or the courts.
- There is a timely request for reconsideration.

NOTE: Another reopening application received within 60 days of a reopening denial may be a protest to the denial.

7. When a previous closure or reopening denial is on appeal, a reopening decision cannot be made until the appeal is resolved.

8. The adjudicator must issue an order on reopening within 90 days of the date of the BIIA or court decision or judgment.

The day after the decision or judgment is counted as day one.