



Property Value Protection Program

Layman's Guide to the Property Value Protection Program



This document provides an overview of the Property Value Protection (PVP) Program Rules. It is not intended to provide all the details as set out in the PVP Program Rules document. Please visit www.phai.ca or the Project Information Exchange at Canadian Nuclear Laboratories, 25 Henderson Street, Port Hope for a copy of the complete PVP Program Rules.

Background

Port Hope Area Initiative

The Port Hope Area Initiative (PHAI) represents the Government of Canada's commitment to respond to the community-recommended solutions for the cleanup and local, long-term, safe management of historic low-level radioactive waste in the municipalities of Port Hope and Clarington. In October 2000, the Government of Canada and the municipalities signed the Principles of Understanding outlining that commitment. The 2001 Legal Agreement between the Government of Canada and the two municipalities launched the PHAI by defining the framework and setting out the responsibilities for the PHAI's projects in Port Hope and Port Granby.

PVP Program

The Government of Canada and the two municipalities recognized that the PHAI could have the potential to create a temporary financial disadvantage to municipal property owners trying to sell or lease their property or renew their mortgage while the Port Hope and Port Granby projects were underway. In keeping with Article 8 of the Legal Agreement, the PVP Program was established to compensate eligible property owners in the designated PVP Zone for financial losses relating to diminution of property value – that is, a decrease in value – realized on sale or rental, or mortgage renewal difficulty as a result of the PHAI. The PVP Program does not compensate for the long-standing presence of the historic low-level radioactive waste in the two communities.

The PVP Program is administered by Canadian Nuclear Laboratories (CNL) on behalf of the Government of Canada.

Property Value Reports and PHAI Impacts

The PVP Program is based on the reports generated by real estate experts and Canada's recommendations from its review of the program. Moving forward CNL will continue to commission independent studies to determine if the PHAI projects are having an impact on property values in the PVP Zone. These studies are comprised of the Property Value Reports used to determine the compensation to which a claimant may be entitled. These reports are publicly available at CNL.

Options for Filing Claims

The PVP Program provides property owners with two options, or routes, for filing claims for loss on sale, loss of rental income or mortgage renewal difficulty as a result of the PHAI:

- **Simplified Route**, which is a user-friendly option for filing for compensation, requires the claimant to establish loss of value by means of an appraisal, based on the applicable Compensation Framework (see below).
- **Standard Route**, which provides the claimant with an option to challenge the Program evidence if they can prove their loss is greater than what is being offered in the compensation frameworks or if their property does not have a recognized project effect. This route requires the claimant to establish the pre-project value of the property, prove diminution in value compared to a baseline neighbourhood, and provide prescribed evidence of the cause of diminution, as outlined in the Rules.

The PVP Program Rules and the options available to claimants are outlined in this document. Please note that this is an overview and not the Program Rules themselves. For the complete PVP Program Rules, please visit the PHAI or www.phai.ca.

Compensation Framework: The PHAI accepts that some properties have the potential to experience direct, project-related impacts (recognized project effects). Only owners of these properties are eligible to file a PVP claim under the Simplified Route. The PVP Program's Compensation Frameworks outline these properties and indicates the Compensation Ranges identified by the PHAI as proportionate to the potential direct project-related impacts on the sale prices of the properties. The PHAI will update the Compensation Frameworks (if required) as the project progresses.

Note: The PVP Program undertook a detailed analysis of the real estate market that spanned more than a decade of sales data gathered from the local market as well as from unaffected communities. The result was that no loss in value caused by the PHAI was identified. To file a claim or appeal under the Standard Route, the PVP Program requires a similar level of analysis be presented. It is unlikely – at this time – such analysis, using the same or comparable methodologies, would yield a different outcome. Such market research would also be very costly for a claimant to provide. However, the PVP Program is committed to update its independent market research on a regular basis and to report the results publicly.

Eligibility

Initial Eligibility Requirements: To be considered for PVP compensation under PVP Program Rules, the claimant must first file an application that meets the following eligibility requirements:

- a) The property must be located within the PVP Zone.
- b) The property must be owned by the claimant at the time of sale, rental or mortgage renewal (as the case may be), and all owners must sign the claim form.
- c) The sale, lease or mortgage renewal of the property must have occurred after the PVP Program was established in 2001 October and before the program's end date.
- d) The transaction must have been arm's length.

Administrative and Evidential Requirements

Further to the Eligibility Requirements, a number of Administrative and Evidential Requirements must also be satisfied:

- a) The claim must be filed within 120 business days of the sale date or within 40 business days following the period of loss on rental or mortgage renewal.
- b) The claimant cannot have filed a previous PVP claim on the property (for the same loss) unless the claim was withdrawn before a claim decision was issued.
- c) The claim form must clearly specify the project event (PHAI milestone) that is believed to have caused the diminution or loss and the amount of the claim.
- d) The claim form must specify under which route – Standard or Simplified – the applicant wishes to proceed.
- e) Properties for which an application is filed under the Simplified Route for Loss on Sale or Loss on Rental Income must be located in an area for which the Compensation Framework has a Compensation Range.

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- f) An applicant making a claim under the Standard Route for Loss on Sale or Loss on Rental Income must submit:
 - 1. Prescribed evidence to demonstrate pre-project fair market value
 - 2. Statistical market analysis to establish diminution
 - 3. Thorough evidence establishing cause of loss
 - 4. Additional information required on the “Loss on Sale” or “Loss on Rental Income” claim form to meet the minimum requirement to provide evidence of loss.
- g) An applicant making a claim under the Standard Route for Mortgage Renewal Difficulty must submit the required documents listed on the claim form and in the “Mortgage Renewal Difficulties” section of the PVP Program Rules to meet the minimum requirement to provide evidence of mortgage renewal difficulty.
- h) An applicant making a claim under the Simplified Route for Loss on Sale or Loss on Rental Income must submit an appraisal to demonstrate loss – in addition to the documentation listed in the Loss on Sale or Loss on Rental Income Claim Forms – to meet the minimum requirement to provide evidence of loss.
- i) If the Claim is for loss on rental income, the property/unit must be rented for the period that is being claimed;
- j) If the Claim is for mortgage renewal loss, the property must be mortgaged for the period that is being claimed;
- k) The claim cannot be made for more than can be proven by the claimant.

Once eligibility has been established and the applicant has met the administrative and evidential requirements, the application will be accepted and processed as a claim; however, this does not mean compensation will be granted.



Loss on Sale – Simplified Route

The following section provides an overview of the requirements for filing a claim for loss on sale under the Simplified Route.

Principles

- a) The timeframe of the PHAI project event identified on a Loss on Sale claim form must coincide with the timeframe that a PHAI remediation/activity is planned to occur or underway, and this activity must directly impact the property. Claims for loss on sale will not be accepted and processed if the period the claim covers is after the PHAI timeframe.
- b) The Simplified Route is available to owners of specific properties in the PVP Zone that the PHAI has recognized may experience a diminution of value as a result of a direct, site-specific project event (a recognized project effect). Compensation Frameworks have been established for areas surrounding each of the PHAI remediation sites. These frameworks will vary to reflect changes in status and location of project activities. If a loss is proven, the amount of compensation offered will depend on the location of the property within a Compensation Framework.
- c) To be awarded PVP compensation under the Simplified Route, the claimant must own property in an area identified as having a value greater than zero in the applicable Compensation Framework, and a loss at the time of sale must be demonstrated.
- d) If a former owner of the property was successful in receiving PVP compensation, that amount will be deducted from any claim submitted by any subsequent owner. This is to ensure that there is no double recovery through the PVP Program.

Minimum Evidence

The minimum evidence for filing a claim under the Simplified Route is one appraisal estimating the unaffected fair market value of the property at the time of firm sale. The claimant may choose to provide this appraisal or to have the program obtain the appraisal. By choosing the Simplified Route, the claimant accepts the PVP Program's evidence of diminution and cause of diminution.

Claim Processing and Decision

The PVP Program will compare the claimant's evidence to the program's evidence. Claimants must demonstrate on a balance of probabilities that their property suffered a loss on the sale, that is, the property sold for less than the unaffected fair market value.

The PVP Program will make a decision to either accept the claim in full or deny it. If a claim filed under the Simplified Route is denied, the claimant may request that the decision be reconsidered. In this event, the program will consider the request and provide a final response that is not subject to further review. The mediation and arbitration process is not available under the Simplified Route, as claimants have agreed to accept program evidence in support of their claim.

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If the claim is accepted and a loss demonstrated, compensation will not exceed the actual amount of the loss suffered. Project-related loss is calculated to be the lesser of:

- a) Sale price multiplied by the percentage from the Compensation Framework

OR

- b) Unaffected fair market value minus sale price

Example:

	Example #1	Example #2	Example #3
Sale price	\$ 100,000	\$ 100,000	\$ 100,000
Zone %	3%	3%	3%
Appraised Value	\$ 102,000	\$ 99,000	\$ 110,000
Compensation offered	\$ 2,000	\$ -	\$ 3,000

Loss on Sale – Standard Route

The following section provides an overview of the process and requirements for filing a claim for Loss on Sale under the Standard Route. To establish that a loss has occurred due to a PHAI-related impact, a claimant must identify the project event and provide evidence showing:

- a) The value of the property the day before the project event (that caused the diminution)
- b) The change in value between the project event date and the sale date in the subject and baseline communities
- c) That the project and no other factors caused the diminution

Principles

- a) The timeframe of the PHAI project event identified on a Loss on Sale claim form must coincide with the timeframe that a PHAI remediation/activity is planned to occur or is underway and this activity must directly impact the subject property. Claims for loss on sale will not be accepted if the period the claim covers is before or after the PHAI timeframe for the identified project event.
- b) If a former owner of the property was successful in receiving PVP compensation, that amount will be deducted from any compensation granted to any subsequent owner. This is to ensure that there is no double recovery through the PVP Program.

Proof of Pre-Project Event Value

To prove diminution in value, claimants must first identify the PHAI project event (per Schedule G of the PVP Program Rules) they believe impacted their property and then provide market evidence (appraisal) that estimates the “unaffected” value of their property on the day before the event(pre-project event value).

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Proof of Diminution

The impacts of the PHAI will be similar on similarly situated properties. To prove diminution, a claimant must:

- a) Find similarly situated properties that have experienced similar impacts from the project (if any) both before and after the PHAI project event identified on the claim form.
- b) Measure the impact on the values of these properties against the value of other similar properties in areas where the potential for a project impact does not exist (baseline neighbourhoods).

There may be multiple ways for claimants to demonstrate diminution over time; however, the two methods that carry the most weight – Multiple Paired Sales Analyses and Multiple Regression Analysis – are described in the following sections.

Multiple Paired Sales Analyses – Port Granby Properties

The claimant is required to provide evidence of the change in the market value between the PHAI project event date and the sale date. As insufficient sales exist to complete a valid Multiple Regression Analysis, the PHAI considers multiple paired sales analyses (PSA) the strongest evidence for the area surrounding the Port Granby site. PSAs of multiple (similarly impacted) properties will demonstrate the relationship between affected and unaffected market values before the date of a PHAI project event and at the time of sale, and will estimate the impact (if any) of the project.

PSAs provided by a claimant as evidence of diminution must:

- a) Compare sold properties in the subject neighbourhood to sold properties in a baseline neighbourhood, before the PHAI project event date and at the time of sale.
- b) Adjust for differences between the properties in each time period, excluding any difference related to project impact (activities of the PHAI).
- c) Establish the difference in value for the properties before the PHAI project event date and after that event date.
- d) Calculate the diminution by subtracting the difference in value after the PHAI project event date from the difference in value before the event date for the properties; this “difference of the difference” becomes the change (diminution) due to the project (assuming all other differences were accounted for).

OR

Multiple Regression Analysis – Port Hope

For Port Hope properties the claimant is required to provide evidence of a change in market value between the PHAI project event date and the sale date using a multiple regression analysis (MRA), the strongest evidence for properties in this area. An MRA will demonstrate the relationship between an affected and unaffected market before the date of a PHAI project event and at the time of sale.

In order for the claimant’s evidence to be considered equivalent to the PHAI evidence, a claimant must provide an MRA that:

- a) Compares the neighbourhood in the subject community (where the property is located) with other similar neighbourhoods located in similar communities to be used as a baseline.
- b) Adjusts for differences between the subject and baseline communities (e.g. uranium processing facility on the waterfront, presence of waste in the community), excluding any difference related to project impact (activities of the PHAI).

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- c) Provides, as a percentage, an estimate of the diminution between the day before the identified PHAI project event date and the sale date in the baseline community and community where the property is located.
- d) Calculates the diminution by subtracting the difference in percentage change between the properties before the PHAI project event date and at the sale date in the subject and baseline community/neighbourhood. This “difference of the difference” becomes the change (diminution) due to the project (assuming all other differences were accounted for).

Proof of Cause and Determination of Project Impact

Along with proof that diminution in value occurred, the claimant must also submit evidence to support the assertion that all, or part, of any established diminution was due to the activities of the PHAI. This evidence may come in the form of environmental data establishing that a direct, physical impact occurred or is anticipated to occur at the property, or through various other forms of market evidence that definitively ties the diminution in property value (or a portion thereof) to the PHAI.

Claim Processing and Decision

The PVP Program will compare the claimant’s evidence to the program’s evidence (property value reports, appraisals, etc.). To be awarded PVP compensation under the Standard Route, the claimant’s evidence should be equal or superior to the PHAI’s evidence and must demonstrate each of the following on a balance of probabilities:

- a) Value established, by an appraisal, for the day before a PHAI project event
- b) That a diminution in the value of the property and similarly impacted properties occurred between the date of a PHAI project event and the date of sale
- c) That the diminution is inconsistent with the unaffected market
- d) The dollar amount of that diminution
- e) That a specific PHAI project event, and no other event, directly caused a loss equal to the amount of diminution

After comparing the claimant’s evidence to PVP Program evidence, a decision will be made to either accept or deny the claim. Under the Standard Route, claimants will have the right to proceed to mediation or arbitration if they believe the claim examiner erred in the decision.

If the claim is accepted and proven, compensation will be the lesser of:

- a) Pre-project fair market value of property multiplied by (comparator or unaffected market change (%) minus local market change)

Or

- b) (Pre-project fair market value of property multiplied by comparator or unaffected market change (%) minus sale price)

The “unaffected market” is also referred to as the “comparator market” as it is the real estate market that is compared to the local market and assumed to be unaffected by the project.

Loss on Rental Income – Simplified Route

The following section provides an overview of the requirements for filing a claim for loss on rental income under the Simplified Route.

Principles

- a) The timeframe of the PHAI project event identified in a Loss on Rental Income claim form must coincide with the timeframe that a PHAI remediation/activity is underway, and this activity must directly impact the property. Claims for loss on rental income will not be accepted if the period the claim covers is before or after the PHAI timeframe for the identified project event.
- b) The Simplified Route is available to owners of specific properties in the PVP Zone that the PHAI has recognized may experience a diminution of value as a result of a direct, site-specific PHAI project event (a recognized project effect).
- c) Compensation Frameworks have been established for areas surrounding each of the PHAI remediation sites. These frameworks will vary based on the status and location of project activities. If a loss is proven, the amount of compensation offered will depend on the location of the property within each Compensation Framework. To be awarded PVP compensation under the Simplified Route, the claimant must own property in an area identified as having a value greater than zero on the applicable Compensation Framework, and a loss at the time of rental must be demonstrated (the property must be rented).
- d) If a former owner of the property was successful in receiving PVP compensation, that amount will be deducted from any claim submitted by any subsequent owner. This is to ensure that there is no double recovery through the PVP Program.

Minimum Evidence

The minimum evidence for filing a claim under the Simplified Route is one appraisal estimating the unaffected fair market rent of the property/rental unit at the time of renting. The claimant may choose to provide this appraisal or to have the program obtain the appraisal. By choosing the Simplified Route, the claimant accepts the PVP Program's evidence of diminution and cause of diminution.

Claim Processing and Decision

The PVP Program will compare the claimant's evidence to program evidence. Claimants must demonstrate on a balance of probabilities that their property/unit suffered a loss on the rental, that is, the property rented for less than the unaffected fair market rent.

The PVP Program will make a decision to either accept the claim in full or deny it. If a claim filed under the Simplified Route is denied, the claimant may request that the decision be reconsidered. In this event, program staff will consider the request and provide a final response that is not subject to further review. The mediation and arbitration processes are not available to claimants under the Simplified Route, as the claimant has agreed to accept program evidence in support of their claim.

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Loss on Rental Income – Standard Route

The following section provides an overview of the requirements for filing a claim for loss on rental income under the Standard Route. To establish that a loss has occurred due to a site-specific PHAI-related impact, a claimant must provide evidence showing:

- a) The fair market rent of the property/unit as of the day before a specific PHAI project event
- b) The change in value between the project event date and the lease date in the subject and baseline communities
- c) That the project and no other factors caused the diminution

Principles

- a) The timeframe identified on a Loss on Rental Income claim form must coincide with the timeframe that a PHAI remediation/activity is underway, and this activity must directly impact the property. Claims for loss on rental income will not be accepted if the period the claim covers is before or after the PHAI timeframe.
- b) The property must be rented.
- c) If a former owner of the property was successful in receiving PVP compensation, that amount will be deducted from any claim submitted by any subsequent owner. This is to ensure that there is no double recovery through the PVP Program.

Proof of Pre-Project Event Value

In order to assess any diminution in value, claimants must first identify the PHAI project event they believe impacted their property and then provide market evidence (an appraisal) that estimates the “unaffected” rental value of their property/unit on the day before the PHAI project event.

Proof of Diminution

The impacts of the PHAI will be similar on similarly situated properties. To determine diminution it is necessary to look at the market for similarly situated properties experiencing the same impact from the project (if any) both before and after the PHAI project event. This impact must be measured against other similar properties in areas where the potential for a project impact does not exist (baseline neighbourhood). There may be multiple ways for claimants to prove diminution over time; however, the two methods that carry the most weight – Multiple Paired Sales Analyses and Multiple Regression Analysis – are described in the following sections.

Minimum Evidence: Multiple Paired Sales Analysis – Port Granby Properties

The claimant is required to provide evidence that shows the change in the market rent between the PHAI project event date and the lease date. As insufficient data exist to complete a valid Multiple Regression Analysis, the PHAI considers multiple paired sales analyses (PSA) the strongest evidence for the area surrounding the Port Granby site. PSAs of multiple (similarly impacted) properties will demonstrate the relationship between affected and unaffected market values before the date of a PHAI project event and at the time of sale. They will also establish a change in rental values for similar properties in affected and unaffected areas between the two dates.

OR

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Minimum Evidence: Multiple Regression Analysis – Port Hope Properties

The claimant is required to provide evidence of a change in the market between the PHAI project event date and the lease date. The PHAI considers a multiple regression analysis (MRA) the strongest evidence for properties in the Port Hope area. An MRA will demonstrate the relationship between affected and unaffected market before the date of a PHAI project event and at the time of lease.

To establish that a diminution has occurred, a claimant must provide an MRA that:

- a) Compares the neighbourhood in the subject community (where the property is located) with other similar neighbourhoods located in similar communities to be used as a baseline
- b) Adjusts for all non-PHAI related differences between the subject and baseline communities (e.g. Nuclear Facility, LLRW, etc.).
- c) Provides, as a percentage, an estimate of the diminution between the day before the identified PHAI project event and the date of rental in the baseline community and community where the property is located.

Proof of Cause and Determination of Project Impact

Along with proof that diminution in fair market rent occurred, the claimant must also submit evidence to support the assertion that all, or part, of any established diminution was due to the activities of the PHAI. This evidence may come in the form of environmental data establishing that a direct, physical impact occurred or is anticipated to occur at the property, or through various other forms of market evidence that definitively ties the diminution in property value (or a portion thereof) directly to the PHAI.

Claim Processing and Decision

The PVP Program will compare the claimant's evidence to the program's evidence. To be awarded PVP compensation under the Standard Route, the claimant's evidence should be equal or superior to the PHAI's evidence and must demonstrate each of the following on a balance of probabilities:

- a) Fair market rent of the property/unit: Value established, by an appraisal, on the day before the PHAI project event
- b) Diminution of value: That a diminution in the rental income of the property/unit and similarly impacted properties/units occurred between the date of a PHAI project event and the date of rental of the property
- c) That the diminution is inconsistent with the unaffected market
- d) The dollar amount of that diminution
- e) That a specific PHAI project event, and no other event, directly caused a rental loss equal to the amount of diminution

After comparing the claimant's evidence to PVP Program evidence, a decision will be made to either accept or deny the claim. Under the Standard Route, claimants will have the right to proceed to mediation or arbitration if they believe the claim examiner erred in the decision.

If the claim is accepted and proven, compensation will be the lesser of:

- a) (Pre-project fair market rent of property/unit) multiplied by (comparator or unaffected market change minus-local market change)

Or

- b) (Pre-project fair market rent multiplied by comparator or unaffected market change) minus actual rent

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Mortgage Renewal Difficulty

The following section provides an overview of the requirements for filing a claim for mortgage renewal difficulties.

Principles

- a) Claimants will be compensated for proven project-related differences between posted mortgage rates and their actual mortgage rate (if the rates are higher due to the project).
- b) Claimants will be compensated in one-year, lump-sum payments, subsequent to the completion of each year of the term of the mortgage. Confirmation from a financial institution that the renewed mortgage is still in place may be requested.
- c) Compensation will be available for the amortized difference of the interest payment and only for the period of time for which the property is impacted by the PHAI.
- d) The timeframe identified on a Mortgage Renewal Difficulty claim form must coincide with the timeframe that a PHAI remediation/activity is underway, and this activity must directly impact the property. Claims for mortgage renewal difficulty will not be accepted if the renewal period is before or after the PHAI timeframe for the identified project event.
- e) If a former owner of the property was successful in receiving PVP compensation, that amount will be deducted from any claim submitted by any subsequent owner. This is to ensure that there is no double recovery through the PVP Program.

Minimum Evidence

The minimum evidence required for filing a claim for mortgage renewal difficulties includes; three letters from local (National Housing Act-approved) lenders indicating they would not renew the mortgage at the posted market rate due to the effect of the project as well as other documents used by the financial institutions to come to their decision, such as a lenders risk assessment or credit bureau report (before and after the project event). If the financial institution's decision to charge a premium is due to a loss in equity, diminution must be established as set out under the PVP Program's Rules for mortgage renewal difficulty and for loss on sale.

Claim Processing and Decision

The PVP Program will compare the claimant's evidence against the program's evidence. To be awarded PVP compensation for mortgage renewal difficulties, a claimant must prove each of the following on a balance of probabilities:

- a) Risk Premium: At least three financial institutions refused to renew an existing mortgage on the property at the standard posted rate due to the effect of the project and requested a risk premium be applied
- b) Diminution of value: The risk premium was a result of the diminution of the property's value, and the diminution occurred between a the date of PHAI project event and the mortgage renewal date
- c) Amount of diminution: The dollar amount of that diminution
- d) The diminution is inconsistent with the unaffected market
- e) That a specific PHAI project event directly lead to a project effect that caused the financial institution to apply the risk premium amount ("Causation");
- f) That no other factor (other than the PHAI project event) affected the risk premium amount

The PVP Program will make a decision to either accept the claim in full or in part, or deny it. Claimants will have the right to proceed to mediation or arbitration if they believe the claim examiner erred in the decision.

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Claim Decision Review: General

The following section provides an overview of requirements for the claim decision review process.

Principles

Different claim review processes are available depending on the type of claim filed (Standard or Simplified Route).

Under the Simplified Route, claimants may request the claim decision be reconsidered if there are reasonable grounds to believe that the PVP Program erred in the decision.

Under the Standard Route, claimants may request that the claim decision be reviewed if there are reasonable grounds to believe that the PVP Program erred in the decision. Mediation and/or arbitration are available.

Only in certain circumstances is evidence beyond that which was provided or used at the claim decision stage permitted in a claim review. A claim review is meant to be a true review of the claim decision; it is not an opportunity to provide additional evidence or argue a new case.

Review – Mediation (Standard Route Only)

Mediation is an informal, voluntary process in which a mediator will attempt to assist the parties in reaching an agreement. A mediation hearing will take place in person and at no cost to the claimant.

Review – Arbitration (Standard Route Only)

Arbitration is a formal and binding process whereby an independent arbitrator will make a decision based on the evidence of the case. An arbitration hearing will take place in writing, and a fee of \$2,000 is required to file for arbitration. This fee will be fully refunded to the claimant if the arbitrator deems the request for review to be reasonable.

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