

POLICY NUMBER: POL-55

Summary of Proposed Amendments

Amendments to the policy, Benefit Assignment (POL-55), are proposed to

- *explain how the Workers Compensation Board responds to a Demand on Third Party by the Canada Revenue Agency*
- *clarify the terms under which compensation is not payable*
- *set out the requirement for supporting evidence when determining the persons best qualified to administer payments*
- *clarify terminology.*

A number of additional revisions to the policy language, format and flow are proposed to improve readability. Please note that the sections on Employment Insurance Sickness Benefits and Social Assistance Benefits have moved to earlier in the document.

The proposed amendments are described in the policy document below. New content is bolded and content to be deleted is shown with a strikethrough. An unmarked version of the proposed policy can be found at the end of the document.

Chapter:
CLAIMS

Subject:
BENEFIT ASSIGNMENT

Effective Date:
November 18, 1999

Last Update:
DRAFT ~~September 19, 2011~~ January 22, 2018

PURPOSE STATEMENT:

The purpose of this policy is to explain how the Workers Compensation Board assigns payment of compensation benefits to a party other than the injured worker.

REFERENCE:

POLICY NUMBER: POL-55

Workers Compensation Act R.S.P.E.I. 1988, Cap. W-7.1, Sections 16, 51, 53.

Maintenance Enforcement Act R.S.P.E.I. 1988, Cap. M-1.

Employment Insurance Act (S.C. 1996, c. 23), Section 126(4)

DEFINITION:

POLICY:

1. When a worker is approved for compensation benefits, ~~in the majority of circumstances,~~ the Workers Compensation Board will make payments directly to the worker **in the majority of circumstances**. However, the Workers Compensation Board will consider assigning the worker's benefits under the following circumstances:

Maintenance Enforcement Orders

~~The Workers Compensation Board, u~~Upon receipt of a written request from the
- Maintenance Enforcement Program, and for ~~the purpose of enforcing a maintenance~~
- enforcement ~~order,~~ **the Workers Compensation Board** will remit a specified sum to
the Maintenance Enforcement Program.

Employment Insurance Sickness Benefits

~~If a~~ A worker, who is waiting for ~~their his/her~~ claim to be adjudicated **or their claim is under appeal**, ~~may~~ receives employment insurance sickness benefits ~~prior to receiving~~ benefits from the Workers Compensation Board. ~~If a worker receives employment insurance sick benefits for their compensable condition-injury while awaiting a decision, and subsequently receives benefits from the Workers Compensation Board for the same period, the worker is obligated to reimburse Human Resources and Skills Development Canada.~~ ~~t~~The Workers Compensation Board ~~may~~**will**, ~~with a written request from the worker,~~ reimburse the federal government on behalf of the worker for the overpayment of employment insurance sickness benefits **when a Notice of Debt is received.**

Social Assistance Benefits

If a worker, who is waiting for his/her/their claim to be adjudicated **or their claim is under appeal**, ~~may~~ receives social assistance benefits **while awaiting a decision**, as temporary financial support prior to receiving benefits from the Workers Compensation Board. ~~If a worker receives social assistance benefits and subsequently receives benefits from the Workers Compensation Board for the same period, the worker is obligated to reimburse the provincial social assistance agency.~~ ~~the Workers Compensation Board may~~ **will** reimburse the provincial social assistance agency, on behalf of the worker, for the overpayment of social assistance benefits upon receipt of a signed **Release of Information and Assignment Of Benefits – Social Assistance Program** form **as well as proof of the debt owing to the provincial social assistance** ~~from the agency.~~

Demand on Third Party by Canada Revenue Agency

Upon receipt of a **Demand on Third Party** (garnishment) from the Canada Revenue Agency for the purpose of repaying a worker's liability, the Workers Compensation Board is required to offset the specified sum from the benefits payable to the worker.

2. The Workers Compensation Board will consider assigning the worker's benefits to a person other than the worker under the following circumstances:

In the Case of Minors or Mental Incompetence

If the worker is a minor or mentally incompetent, the Workers Compensation Board may make the payments to such persons, who, **based on supporting evidence**, ~~in the opinion of the Workers Compensation Board,~~ are best qualified in all circumstances to administer the payment, whether or not the person to whom the payment is made is the legal guardian of such minor or committee of that person.

Incarcerated or Committed

If the worker who is entitled to compensation benefits is committed to a mental **health facility**, ~~institution~~ **for reasons other than the work-related injury or illness**, or incarcerated in ~~any~~ jail or prison, compensation is not payable to the worker for the period of ~~the worker's~~ **their** confinement.

~~However,~~ **the** Workers Compensation Board may pay any part of the compensation to any dependant of the worker or to such persons, **who, based on supporting evidence**,

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~~as in the opinion of the Workers Compensation Board,~~ are best qualified in all circumstances to administer the —payments on behalf of the dependants.

23. Subject to Sections 1 and 2 of this policy, the Workers Compensation Board will not assign the worker's compensation benefits under the following circumstances:

Allocation of Benefits to a Worker's Employer

The Workers Compensation Board will not reimburse the worker's employer if the employer continues to pay the worker for a period(s) of time loss from work due to an injury. ~~If the employer chooses to pay a worker while the worker is waiting for his/her/their claim to be adjudicated, the Workers Compensation Board will not reimburse the worker's employer if the worker's claim is accepted.~~ The Workers Compensation Board will pay the worker if the claim is accepted and it is the worker's responsibility to reimburse the employer.

Payment of Worker's Debt

The Workers Compensation Board will not authorize benefit payment to a creditor in payment of a worker's debt unless the creditor has a court order which is not under active appeal.

34. In all cases where the Workers Compensation Board has made a decision to assign benefits, the worker shall be notified prior to the benefits being assigned.

HISTORY:

September 19, 2011 - Amended to add that the WCB may reimburse the provincial social services agency on behalf of the worker for an overpayment of social assistance benefits.

June 24, 2009 - Amended to identify when the worker must reimburse Human Resources and Skills Development Canada for Employment Insurance sick benefits or situations when the WCB will not assign compensation benefits.

September 25, 2008 - The policy was updated as a result of the 60 month policy review process. The policy has been amended to ensure consistency between this policy and provisions in the Workers Compensation Act. Also, the name has been changed from "Cheque Assignment" to "Benefit Assignment".

POLICY NUMBER: POL-55

December 13, 2001 - Replaces Policy and Practice Cheque Assignment dated November 18, 1999.

Board of Directors Approval Date: November 18, 1999

-UNMARKED VERSION OF DRAFT POLICY-

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CLAIMS

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1. When a worker is approved for compensation benefits, the Workers Compensation Board will make payments directly to the worker in the majority of circumstances. However, the Workers Compensation Board will consider assigning the worker's benefits under the following circumstances:

Maintenance Enforcement Orders

Upon receipt of a written request from the Maintenance Enforcement Program, and for the purpose of enforcing a maintenance enforcement order, the Workers Compensation Board will remit a specified sum to the Maintenance Enforcement Program.

Employment Insurance Sickness Benefits

If a worker, who is waiting for their claim to be adjudicated or their claim is under appeal, receives employment insurance sickness benefits for their compensable injury while awaiting a decision, the Workers Compensation Board will reimburse the federal government on behalf of the worker for the overpayment of employment insurance sickness benefits when a Notice of Debt is received.

Social Assistance Benefits

If a worker, who is waiting for their claim to be adjudicated or their claim is under appeal, receives social assistance benefits while awaiting a decision, the Workers Compensation Board will reimburse the provincial social assistance agency, on behalf of the worker, for the overpayment of social assistance benefits upon receipt of a signed *Release of Information and Assignment Of Benefits – Social Assistance Program* form as well as proof of the debt owing to the provincial social assistance agency.

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If the worker is a minor or mentally incompetent, the Workers Compensation Board may make the payments to such persons who, based on supporting evidence, are best qualified in all circumstances to administer the payment, whether or not the person to whom the payment is made is the legal guardian of such minor or committee of that person.

Incarcerated or Committed

If the worker who is entitled to compensation benefits is committed to a mental health facility, for reasons other than the work-related injury or illness, or incarcerated in jail or prison, compensation is not payable to the worker for the period of their confinement.

The Workers Compensation Board may pay any part of the compensation to any dependant of the worker or to such persons who, based on supporting evidence, are best qualified in all circumstances to administer the payments on behalf of the dependants.

3. Subject to Sections 1 and 2 of this policy, the Workers Compensation Board will not assign the worker's compensation benefits under the following circumstances:

Allocation of Benefits to a Worker's Employer

The Workers Compensation Board will not reimburse the worker's employer if the employer continues to pay the worker for a period(s) of time loss from work due to an injury. The Workers Compensation Board will pay the worker if the claim is accepted and it is the worker's responsibility to reimburse the employer.

Payment of Worker's Debt

The Workers Compensation Board will not authorize benefit payment to a creditor in payment of a worker's debt unless the creditor has a court order which is not under active appeal.

4. In all cases where the Workers Compensation Board has made a decision to assign benefits, the worker shall be notified prior to the benefits being assigned.

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