

POLICY NUMBER: POL-116

**Chapter:
CLAIMS**

**Subject:
ESTIMATING EARNING CAPACITY**

**Effective Date:
March 27, 2003**

**Last Update:
September 24, 2015**

PURPOSE STATEMENT:

The purpose of the policy is to describe how the Workers Compensation Board determines a worker's estimated earning capacity.

REFERENCE:

Workers Compensation Act R.S.P.E.I. 1988, Cap. W-7.1, Section(s) 6, 18 (12- 14), 40, 41, 51(6).
Workers Compensation Board Policy, POL-93, Return to Work.
Workers Compensation Board Policy, POL-117, Vocational Rehabilitation.

DEFINITION:

In this policy:

“Alternative employment” means employment that is comparable, as determined by the Workers Compensation Board, to the worker's pre-injury work in nature, earnings, qualifications, opportunities and other respects.

“Estimated earnings” means the wages as determined by the Workers Compensation Board that the worker is capable of earning when actual wages are not known and the worker has an impairment.

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“Impairment” means a medically measurable permanent anatomical loss or disfigurement and includes, amputation, loss of vision, loss of hearing, impaired nerve function, scarring causing disfigurement, joint ankylosis, or joint fusion from surgery.

“Loss of earning capacity” means the difference between the worker’s net average earnings before the accident and the net average amount the Workers Compensation Board determines the worker is capable of earning after the accident.

“Suitable work” means work that a worker has the necessary skills to perform and is medically able to perform, and that does not pose health or safety hazards to the worker, or co-workers, as determined by the Workers Compensation Board.

POLICY:

1. The Workers Compensation Board shall determine a worker’s loss of earning capacity when it determines the worker has an impairment and the worker:
 - is unable to return to the pre-injury employment or obtain alternative employment, including suitable work, at the same wage level; or
 - refuses to seek or accept suitable work.

2. When a worker’s actual wages are not known, the Workers Compensation Board must determine the worker’s estimated earnings using the following information:
 - the worker’s functional ability to work;
 - the average wages of the suitable work;
 - the worker’s work history, education, and analysis of transferable skills; and
 - local labour market information.

3. The Worker Compensation Board shall determine the worker’s estimated earnings based on the average wages of three suitable occupations, identified by the Workers Compensation Board, that reasonably exist in Prince Edward Island.

Where the worker normally resides outside of Prince Edward Island, the Workers Compensation Board will determine the worker’s estimated earnings capacity using information from the worker’s home province or territory.

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4. A worker who completes vocational rehabilitation, continues to have a loss of earning capacity, and is not successful in finding employment in the area for which the worker was formally trained will have his/her earnings loss estimated in accordance with Workers Compensation Board policy, POL-117, "Vocational Rehabilitation".
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HISTORY:

September 24, 2015 - Amended to clarify what information the Workers Compensation Board will use when estimating a worker's earning capacity.

September 30, 2009 - The policy was reviewed as a result of the 60 month policy review process.

March 31, 2004 - Amended # 6 to ensure this policy is not inconsistent with the Act with respect to workers who fail or refuse to submit to or cooperate in vocational rehabilitation.

October 20, 2003 - Amended to reword # 5 of the policy to ensure equitable treatment to workers who have completed vocational rehabilitation and are incurring a loss of earning capacity.

March 27, 2003 - Replaces policy and practice "Benefits Administration - Earnings Loss: Post-Accident Earnings" dated April 16, 1996 and "Benefits Administration - Adjudication and Compensation Post-Accident Earnings - Determining Earnings Capacity" dated April 16, 1996.

Board of Directors Approval Date: March 27, 2003