

**POLICY NUMBER: POL-60**

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**Summary of Proposed Amendments**

*Amendments to the policy, Recurrence (POL-60), are proposed to provide clarification on the criteria for entitlement related to a recurrence of a workplace injury. The amendments focus on differentiating between a re-opening and a recurrence, weighing evidence to establish medical compatibility and determining if there are intervening variable that are of causative significance. Additional amendments are proposed to improve the organization and readability of the policy.*

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

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**Chapter:**  
**CLAIMS**

**Subject:**  
**RECURRENCE**

**Effective Date:**  
**June 21, 2001**

**Last Updated On:**  
~~January 1, 2014~~ **Draft March 29, 2018**

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**PURPOSE STATEMENT:**

**The purpose of this policy is to explain how the Workers Compensation Board determines whether a worker is experiencing a recurrence of a work-related injury and if so, the benefits to which the worker is entitled.**

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**REFERENCE:**

*Workers Compensation Act R.S.P.E.I.1988, Cap. W-7.1, Section 6, 32, 40, 41.*  
**Workers Compensation Board Policy, POL-68, Weighing of Evidence.**

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**Workers Compensation Board Policy, POL-71, Arising Out Of and In the Course of Employment.**

~~Workers Compensation Board Policy, POL-84, Waiting Period.~~

Workers Compensation Board Policy, POL-86, Wage Loss Benefits.

**Workers Compensation Board Policy, POL-92, Medical Aid.**

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**DEFINITION:**

In this policy:

“Average earnings” means the daily, weekly, monthly, or regular remuneration the worker was receiving at the time of the accident or any consecutive twelve month period during the two years preceding the date of accident, whichever, in the opinion of the Workers Compensation Board best represents the worker’s loss of earning capacity. This includes any remuneration the worker received as a result of the employment and Employment Insurance.

“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.

“Maximum annual earnings” means a maximum annual earnings amount set by the Workers Compensation Board on the first day of January, 1996 and adjusted each year by the percentage increase in the Consumer Price Index for Charlottetown and Summerside for all items for the twelve-month period ending on the June 30 previous as determined by the Workers Compensation Board in August of each year on the basis of monthly reports published in that respect by Statistics Canada for that period.

“Objective medical evidence” means evidence presented through a physical examination including diagnostic tests of a worker and reported by the treating or family physician.

**“Objective medical information” means information that can be quantified or measured and is usually presented through documentation including clinical notes, physical examination, consultations, hospital records, admission and discharge summaries, notes on operations, pathologies and lab test reports, and reports on special tests and diagnostic procedures.**

“Rate group of the employer” means the established industry group to which an employer is assigned by the Workers Compensation Board.

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~~“Recurrence” means a return of disabling conditions, supported by objective medical evidence that can be reasonably related to an injury caused by a previous work-related accident. Recurrence of the condition must be medically compatible with the previous injury, and decisions to accept or deny recurrences must rely on medical evidence supporting this relationship~~ **a return of a work injury that is reasonably related to a previous work-related accident and from which the worker has previously recovered or plateaued. Recurrence of the injury must be medically compatible with the previous injury and may include additional loss of earnings, as supported by objective medical evidence.**

**“Subjective medical information” means opinions that are not based on information that can be quantified or measured. These opinions are based on intuitions or impressions of a health care provider(s) and are usually presented through symptoms described by the worker that are not supported by objective medical information.**

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## **POLICY**

1. **Recurrence of a work injury** ~~A recurrence must be medically compatible with the previous work injury accepted by the Workers Compensation Board, and decisions to accept or deny recurrences must rely on objective medical evidence supporting their relationship~~ **between the current condition and the previous work injury.**
2. **A recurrence differs from a re-opening, in that a re-opening is considered to be a continuation of the original claim and is not subject to the criteria for entitlement outlined in this policy.**

**A claim may be considered as a re-opening, and be eligible for medical aid and temporary wage loss, if applicable, if:**

- **a known or planned medical intervention (e.g., surgery, injections, trial of new treatment) related to the original work injury is required; or**
- **a return to work is unsuccessful within one month of the worker’s return to work, and objective medical evidence supports a change in the work injury resulting in a need for further medical intervention and loss of earnings; or**
- **objective medical evidence supports a change in the compensable condition of a worker with an impairment.**

**For all other circumstances where a current condition may be related to a previous**

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work injury from which the worker had previously recovered or plateaued, the claim will be adjudicated as a recurrence.

### Criteria for Entitlement of a Claim for Recurrence

32. Recurrence claims are acceptable when:

- the **current** condition ~~s-causing the current physical or functional abnormality (i.e., impairment)-is~~ are medically compatible with the **original** previous work injury; -and
- no other variables have intervened as a significant cause of the current ~~impairing~~ conditions.

**A recurrence claim will be accepted when the condition occurs as a reasonable medical consequence of the original injury on the balance of probabilities, as set out in Workers Compensation Board policy, POL-68, Weighing of Evidence.**

### Medical Compatibility

34. To assess medical compatibility, **objective medical evidence and objective medical information**~~the worker's medical history is compared with the current condition~~ **is reviewed** to determine **whether the probability that the current condition is symptoms are reasonably related**~~a direct result of~~ **to the diagnosis accepted under the original claim.** ~~injury which initiated the original claim.~~

**The Workers Compensation Board may rely upon the worker's medical history, medical research and medical opinions to determine the probability of medical compatibility.**

-5. **Where there is conflicting medical information regarding medical compatibility, the information will be assessed using the criteria set out in Workers Compensation Board policy, POL-68, Weighing of Evidence.**

46. **Subjective medical information, such as reports of pain symptoms, will be considered when assessing medical compatibility, however, greater weight will be given to objective medical evidence and objective medical information in the decision making**

process, as described in Workers Compensation Board policy, POL-68, Weighing of Evidence.

~~5. Matters such as pre-existing conditions, the passage of time, the effects of natural physical deterioration processes or aggravating lifestyle factors, and the anatomical area which was originally accepted as part of the claim will be considered when assessing these cases.~~

4. Continuity of Symptoms

67. Continuity of symptoms **following the recovery or plateau from the original injury**, as supported by **objective medical reports and medical information**, during the period between recovery from the original injury and the onset of the current condition **is a reliable indicator of a direct relationship between the current condition and the original injury.** ~~is a reliable indicator of a direct causal relationship.~~

~~NL: Lack of continuing symptoms, however, does not entirely rule out the possibility that the current impairment is a recurrence.~~

87. Specific indicators that may assist in determining **support a** continuity of symptoms include:

- ~~i) objective medical evidence of continuing a continued need for medical care since the original injury; or~~
- ~~ii) ongoing work restrictions or job modifications following the original injury; or~~
- ~~iii) continuing Extended Wage Loss Benefits entitlement for the original injury.~~

**Where there is no objective medical evidence of the specific indicators above, this will be considered as a factor in determining whether there is a continuity of symptoms.**

~~Recurrence Versus a New Accident~~

- ~~An injury will be accepted as a recurrence when the condition occurs as a predictable medical consequence of the original injury on the balance of probabilities.~~

**Intervening Variables**

9. **When assessing whether the current condition can be reasonably related to the**

original work injury, evidence of any intervening variables that may be the cause of the current condition will be considered.

10. Intervening variables may include, but are not limited to:
  - new or pre-existing health conditions;
  - the passage of time;
  - the effects of natural physical deterioration processes (e.g., aging, degeneration);
  - aggravating lifestyle factors, or
  - an incident, event, activity or exposure which, by itself, may have caused a new injury.
11. If, on the balance of probabilities, the intervening variable(s) is considered to be a significant cause of the current condition, the recurrence will not be accepted.
12. A new work-related incident, event, activity or exposure may be considered as ~~A claim will be classified as a new and separate accident-, and will be adjudicated under the provisions of Worker Compensation Board policy, POL-71, Arising Out of and In the Course of Employment. where:~~

#### Medical Aid

- ~~6.13.~~ When a recurrence of a previous injury is accepted, the Workers Compensation Board will provide medical aid for that injury, **as set out in Workers Compensation Board policy, POL-92, Medical Aid.** ~~and will provide compensation for time lost as a result of that injury. The worker must first satisfy the requirements of the waiting period before receiving any compensation. The waiting period applies only once per injury. If the waiting period requirements had been fulfilled at the time of the original injury, the waiting period will not apply for the recurrence of the same injury.~~

#### Wage Loss Benefits

14. Where a worker has a recurrence of an injury that causes a loss of earning capacity, wage loss benefits for the recurrence will be payable in an amount equal to 85% of the worker's net loss of earning capacity up to the maximum annual earnings limit, as per Workers Compensation Board policy, POL-86, Wage Loss Benefits.
  - ~~7.~~—Where a worker has a recurrence of an injury that causes a loss of earning capacity ~~resulting from the same accident~~, up to twelve months after

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the initial loss of earning capacity has ended, **wage loss benefits will be based on the worker's net average earnings and maximum annual earnings** ~~will be based on the worker's earnings in place~~ on the date of the original injury.

- ~~8. —~~ Where a worker has a recurrence of an injury that causes a loss of earning capacity ~~resulting from the same accident~~ more than twelve months after the initial loss of earning capacity has ended, **wage loss benefits will be based on the worker's net average earnings and the maximum annual earnings on the date of the recurrence** ~~will be based on the earnings related to the worker's current employment or the earnings in place~~ on the date of the original injury, whichever the Workers Compensation Board determines best represents the **worker's** loss of earning capacity ~~suffered by the worker~~.
  
- ~~9. —~~ Where a worker has a recurrence prior to January 1, 2014, wage loss benefits are payable at an amount equivalent to 80% of the worker's loss of average capacity for the first 38 weeks and increases to 85% after 38 weeks. Where the worker receives wage loss benefits for less than 38 weeks prior to January 1, 2014, the worker's benefits will be adjusted to 85% effective January 1, 2014.  
  
~~—~~ When determining whether to use 80% or 85% upon acceptance of a recurrence, the Workers Compensation Board will consider the number of weeks of time loss already received by the worker since the original injury.
  
- ~~10. —~~ Where the worker has a recurrence after January 1, 2014, the worker's wage loss will be payable in an amount equal to 85% of the worker's loss of earning capacity up to the maximum annual earnings limit.
  
- ~~11~~15. If a worker, while working for another employer, suffers a loss of earning capacity related to the original work-related injury, the costs related to that injury will be charged to the rate group of the employer at the time of the original accident.

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**HISTORY:**

January 1, 2014 - Amended to reflect the revisions made to the *Workers Compensation Act* that became effective January 1, 2014.

September 27, 2007 - The policy was updated as a result of the 60 month policy review process.

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March 28, 2002 - Policy revised to incorporate changes required as a result of Workers Compensation Act amendments (Bill 15) to be proclaimed April 1, 2002.

Board of Directors Approval Date: June 21, 2001

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<UNMARKED VERSION OF DRAFT POLICY>

**Chapter:**  
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**Subject:**  
**RECURRENCE**

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**PURPOSE STATEMENT:**

The purpose of this policy is to explain how the Workers Compensation Board determines whether a worker is experiencing a recurrence of a work-related injury and if so, the benefits to which the worker is entitled.

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**REFERENCE:**

*Workers Compensation Act* R.S.P.E.I.1988, Cap. W-7.1, Section 6, 32, 40, 41.  
Workers Compensation Board Policy, POL-68, Weighing of Evidence.  
Workers Compensation Board Policy, POL-71, Arising Out Of and In the Course of Employment.  
Workers Compensation Board Policy, POL-86, Wage Loss Benefits.

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Workers Compensation Board Policy, POL-92, Medical Aid.

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**DEFINITION:**

In this policy:

“Average earnings” means the daily, weekly, monthly, or regular remuneration the worker was receiving at the time of the accident or any consecutive twelve month period during the two years preceding the date of accident, whichever, in the opinion of the Workers Compensation Board best represents the worker’s loss of earning capacity. This includes any remuneration the worker received as a result of the employment and Employment Insurance.

“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.

“Maximum annual earnings” means a maximum annual earnings amount set by the Workers Compensation Board on the first day of January, 1996 and adjusted each year by the percentage increase in the Consumer Price Index for Charlottetown and Summerside for all items for the twelve-month period ending on the June 30 previous as determined by the Workers Compensation Board in August of each year on the basis of monthly reports published in that respect by Statistics Canada for that period.

“Objective medical evidence” means evidence presented through a physical examination including diagnostic tests of a worker and reported by the treating or family physician.

“Objective medical information” means information that can be quantified or measured and is usually presented through documentation including clinical notes, physical examination, consultations, hospital records, admission and discharge summaries, notes on operations, pathologies and lab test reports, and reports on special tests and diagnostic procedures.

“Rate group of the employer” means the established industry group to which an employer is assigned by the Workers Compensation Board.

“Recurrence” means a return of a work injury that is reasonably related to a previous work-related accident and from which the worker has previously recovered or plateaued. Recurrence of the injury must be medically compatible with the previous injury and may include additional loss of earnings, as supported by objective medical evidence.

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“Subjective medical information” means opinions that are not based on information that can be quantified or measured. These opinions are based on intuitions or impressions of a health care provider(s) and are usually presented through symptoms described by the worker that are not supported by objective medical information.

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## **POLICY**

1. Recurrence of a work injury must be medically compatible with the previous work injury accepted by the Workers Compensation Board. Decisions to accept recurrences rely on objective medical evidence supporting the relationship between the current condition and the previous work injury.
2. A recurrence differs from a re-opening, in that a re-opening is considered to be a continuation of the original claim and is not subject to the criteria for entitlement outlined in this policy.

A claim may be considered as a re-opening, and be eligible for medical aid and temporary wage loss, if applicable, if:

- a known or planned medical intervention (e.g., surgery, injections, trial of new treatment) related to the original work injury is required; or
- a return to work is unsuccessful within one month of the worker’s return to work, and objective medical evidence supports a change in the work injury resulting in a need for further medical intervention and loss of earnings; or
- objective medical evidence supports a change in the compensable condition of a worker with an impairment.

For all other circumstances where a current condition may be related to a previous work injury from which the worker had previously recovered or plateaued, the claim will be adjudicated as a recurrence.

## **Criteria for Entitlement of a Claim for Recurrence**

3. Recurrence claims are acceptable when:
    - the current condition is medically compatible with the original work injury; and
    - no other variables have intervened as a significant cause of the current condition.
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A recurrence claim will be accepted when the condition occurs as a reasonable medical consequence of the original injury on the balance of probabilities, as set out in Workers Compensation Board policy, POL-68, Weighing of Evidence.

### **Medical Compatibility**

4. To assess medical compatibility, objective medical evidence and objective medical information is reviewed to determine whether the current condition is reasonably related to the diagnosis accepted under the original claim.

The Workers Compensation Board may rely upon the worker's medical history, medical research and medical opinions to determine the probability of medical compatibility.

5. Where there is conflicting medical information regarding medical compatibility, the information will be assessed using the criteria set out in Workers Compensation Board policy, POL-68, Weighing of Evidence.
6. Subjective medical information, such as reports of pain symptoms, will be considered when assessing medical compatibility, however, greater weight will be given to objective medical evidence and objective medical information in the decision making process, as described in Workers Compensation Board policy, POL-68, Weighing of Evidence.

### Continuity of Symptoms

7. Continuity of symptoms following the recovery or plateau from the original injury, as supported by objective medical evidence and medical information, is a reliable indicator of a direct relationship between the current condition and the original injury.
8. Specific indicators that may support a continuity of symptoms include:
  - objective medical evidence of a continued need for medical care since the original injury; or
  - ongoing work restrictions or job modifications following the original injury.

Where there is no objective medical evidence of the specific indicators above, this will be considered as a factor in determining whether there is a continuity of symptoms.

### **Intervening Variables**

9. When assessing whether the current condition can be reasonably related to the original work injury, evidence of any intervening variables that may be the cause of the current condition will be considered.
10. Intervening variables may include, but are not limited to:
  - new or pre-existing health conditions;
  - the passage of time;
  - the effects of natural physical deterioration processes (e.g., aging, degeneration);
  - aggravating lifestyle factors; or
  - an incident, event, activity or exposure which, by itself, may have caused a new injury.
11. If, on the balance of probabilities, the intervening variable(s) is considered to be a significant cause of the current condition, the recurrence will not be accepted.
12. A new work-related incident, event, activity or exposure may be considered as a new and separate accident, and will be adjudicated under the provisions of Worker Compensation Board policy, POL-71, Arising Out of and In the Course of Employment.

### **Medical Aid**

13. When a recurrence of a previous injury is accepted, the Workers Compensation Board will provide medical aid for that injury, as set out in Workers Compensation Board policy, POL-92, Medical Aid.

### **Wage Loss Benefits**

14. Where a worker has a recurrence of an injury that causes a loss of earning capacity, wage loss benefits for the recurrence will be payable in an amount equal to 85% of the worker's net loss of earning capacity up to the maximum annual earnings limit, as per Workers Compensation Board policy, POL-86, Wage Loss Benefits.
  - Where a worker has a recurrence of an injury that causes a loss of earning capacity, up to twelve months after the initial loss of earning capacity has ended, wage loss benefits will be based on the worker's net average earnings and maximum annual earnings on the date of the original injury.

- Where a worker has a recurrence of an injury that causes a loss of earning capacity more than twelve months after the initial loss of earning capacity has ended, wage loss benefits will be based on the worker's net average earnings and the maximum annual earnings on the date of the recurrence or the date of the original injury, whichever the Workers Compensation Board determines best represents the worker's loss of earning capacity.
15. If a worker, while working for another employer, suffers a loss of earning capacity related to the original work-related injury, the costs related to that injury will be charged to the rate group of the employer at the time of the original accident.
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