

**Alberta WCB
Policies &
Information**

Chapter:

BENEFITS

Subject:

ESTABLISHING NET EARNINGS

Authorization:

Date:

BoD Resolution 2020/01/02

January 28, 2020

APPLICATION 2: SPECIAL CIRCUMSTANCES

1. *How does WCB determine the compensation rate for seasonal or casual workers?*

When a worker is employed in seasonal or casual work (a non-permanent worker, see Glossary), WCB calculates the compensation rate in two stages:

1. To compensate for the short-term loss, WCB initially sets a rate based on the worker’s actual earnings in the accident employment. This rate continues until the worker’s temporary employment would normally have ended, if not for the accident.
2. WCB then adjusts the rate, taking into consideration the worker’s employment pattern and earnings for a period or periods of time before the accident which, in WCB’s opinion, fairly represent the worker’s annualized gross earnings at the time of the accident. WCB usually considers the 12-month period prior to the accident, but will consider a different period if the 12-month period is not a fair representation of the worker’s earnings.

2. *How is the compensation rate determined for workers with personal coverage?*

The compensation rate depends on two things:

1. the amount of personal coverage the worker has in effect on the date of accident, and
2. the worker’s actual gross earnings*, if the coverage amount is greater than the Guaranteed Coverage amount for the industry (see Glossary).

* Gross earnings are not the same as gross income. To determine gross earnings, WCB deducts the business expenses from gross income and may require Canada Revenue Agency (CRA) information for confirmation. Owner-operators are an exception to this general rule; see Question 3 for details.

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*Personal coverage
(continued)*

NOTE: dividends may be considered earnings for directors when they are paid in lieu of salary (see Policy 06-02, Part II, Application 2, Question 3).

*Worker has personal coverage **between** the minimum and the Guaranteed Coverage amount*

When an injured worker has purchased personal coverage in any amount from the minimum up to and including the Guaranteed Coverage amount, WCB calculates compensation based on the personal coverage amount.

In these cases, the personal coverage amount is used as the worker’s annual gross earnings. WCB then calculates the compensation rate in the same way that it would for any other worker (see Application 1, Question 1).

*Worker has personal coverage **greater than** the Guaranteed Coverage amount*

Workers who have purchased personal coverage in an amount higher than the Guaranteed Coverage amount must provide confirmation of their actual gross earnings:

- If the worker’s actual gross earnings are the **same as or greater** than the personal coverage purchased, WCB calculates compensation based on the personal coverage amount.

In these cases, the personal coverage amount is used as the worker’s annual gross earnings. WCB then calculates the compensation rate in the same way that it would for any other worker (see Application 1, Question 1).

- If the worker’s actual gross earnings are **less than** the personal coverage purchased, WCB compares the worker’s actual gross earnings to the Guaranteed Coverage amount, and bases compensation on whichever is the **greater**.

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3. *How does WCB determine earnings for owner-operators?*

An owner-operator is a worker who owns and operates mobile industrial equipment such as a tractor/trailer unit, bobcat, delivery truck, or truck-mounted mobile welding unit. The worker's gross income includes payment for the labour involved and for the use of the equipment. Compensation is paid on the labour portion only. For these workers, WCB considers the compensable earnings (labour portion) to be the **greater** of

- the worker's gross income, less business expenses, or
- 25% of gross income for all owner-operators except for welders who own and operate a welding unit. The labour portion for welders is 50% of gross income.

4. *How are earnings determined for sub-contractors or commission salespeople?*

When a worker is employed as a sub-contractor (for example, a plumber), WCB considers earnings to be the contractual earnings minus business expenses.

When a worker is paid based on the amount of sales, earnings are considered to be gross income, minus any business expenses.

5. *How does WCB determine earnings for piece workers?*

Piece workers are paid according to the amount of work completed (for example, a logger who is paid for each tree felled).

WCB normally considers the worker's gross earnings for work completed. If, however, the worker's gross earnings do not accurately reflect the position (for example, if a worker is injured shortly after starting the job) WCB may use the average earnings of a similarly employed worker.

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6. *What if a worker is required to supply tools of the trade?*

If workers are required to supply their own tools of the trade, WCB considers any payment for supplying the tools to be compensable earnings. This does not include payments that are a direct reimbursement of expenses.

7. *When an unemployed worker becomes eligible for disability benefits, how does WCB determine the compensation rate?*

WCB normally uses the worker's gross earnings at the date of accident, adjusted by any applicable cost-of-living increases.

If the worker can substantiate a higher earning pattern for the year before becoming eligible for the disability benefits, WCB will consider whether s.61 of the WCA applies (see Policy 04-03, *Recurrence of Temporary Disability*).

8. *When a retired worker becomes eligible for disability benefits, how does WCB determine the compensation rate?*

If a retired worker becomes eligible for permanent disability benefits, WCB normally uses the worker's gross earnings at the date of accident, adjusted by any applicable cost-of-living increases.

Retired workers who are not employed in any occupation do not experience any loss of earnings during periods of temporary disability. Consequently, they are not eligible for temporary wage loss benefits for periods of temporary disability that start after the worker has retired from the workforce.

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9. *What earnings are considered for unpaid workers and volunteers (see Policy 06-01, Part II, Application 3)?*

There are special provisions for certain categories of unpaid workers and volunteers [for example, emergency service volunteers (Question 10)], as set out in this policy application. For all other unpaid workers and volunteers, WCB considers the following:

- To be eligible for temporary wage loss benefits, an unpaid worker or volunteer must have an actual wage loss. If the worker has concurrent paid employment, WCB will consider those earnings. If the worker has no concurrent earnings, the worker is not eligible for temporary wage loss benefits but is eligible for all other applicable benefits, such as medical aid.
- If the accident causes permanent disability, the compensation rate for permanent disability benefits is based on the **greater** of:
 - the temporary benefit rate adjusted by any applicable cost-of-living adjustments, and
 - the minimum monthly permanent disability award in effect at the time the permanent disability award is made.

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10. *What earnings are considered for emergency response volunteers?*

When an emergency response volunteer as described in s.14(3) of the WCA (for example, a volunteer firefighter) is injured while working in that capacity, WCB considers the following earnings when setting the compensation rate:

- if the worker has regular employment, compensation is based on the earnings from that employment
- if the worker is unemployed at the time of the accident, compensation is based on a value of service for the worker’s volunteer emergency service work. The value of service is calculated using the usual rates for the type of work, and takes into consideration the hours of service provided, together with any other relevant factors.

11. *What earnings are considered for Municipal Councillors and School Trustees?*

When the municipal council or school division has coverage in effect for the councillors or trustees, WCB normally considers earnings to be whatever payment the councillors/trustees received for their services. If payment is nominal, WCB may use a reasonable value of service for services rendered.

If the councillor or trustee has concurrent employment, WCB will also take the concurrent earnings into consideration (see Application 1, General).

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12. *What does WCB use as an earnings base for individuals considered to be learners?*

The term “learner” is defined in s.1(1)(o) of the *WCA*. A learner is a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry to which the *WCA* applies for the purpose of undergoing testing, training or probationary work preliminary to employment in an industry to which the *WCA* applies.

If a learner is disabled as a result of an industrial accident, WCB calculates compensation as though the worker’s earnings were that of a beginner in that industry.

13. *When a student covered under s.7 of the WC Regulation is injured, what is compensation based on?*

To be eligible for temporary wage loss benefits, the student must have an actual earnings loss or be injured while participating in an authorized work experience program. Earnings for temporary benefits are determined as follows:

- if the student is injured while participating in an authorized work experience program [as set out in s.7(1)(c)(vi) and s.7(1)(e) of the *WC Regulation*], compensation is based on the usual rate of wages for an apprentice in the trade most similar to the training provided by the program
- if the student is injured while in attendance at an educational facility covered under s.7(1)(c)(i - v) of the *WC Regulation*, compensation for temporary earnings loss is based on earnings from concurrent employment, if any.

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Students (continued)

When the accident causes permanent disability, the compensation rate for permanent disability benefits is based on the **greater** of:

- the temporary benefit rate adjusted by any applicable cost-of-living adjustments, and
- the minimum monthly permanent disability award in effect at the time the permanent disability award is made.

Under certain circumstances, WCB will adjust the compensation rates of young workers and apprentices (see Application 3, Rate Adjustments).

14. *How are earnings determined for mental institute patients?*

If the patient was disabled and receiving compensation prior to admission, the earnings base remains the same and compensation continues for as long as the disability lasts.

If a patient is injured while working for an employer in an industry to which the *WCA* applies, the patient is considered a worker of that employer. WCB bases compensation on the actual earnings paid for the work.

If a patient is injured while working in or out of the institution or facility in an industry to which the *WCA* does not apply, the patient is considered to be a worker of the Alberta Provincial Government. WCB determines earnings as follows:

- while the worker is a patient, WCB bases compensation on the actual wages paid to the worker at the time of the accident

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Patients (continued)

- if the worker is still disabled at the time of release from the institution, WCB compares the actual earnings to the wages of a similarly employed person who is not a patient, and bases compensation on the **greater** of the two.

An exception to the above occurs when the patient is participating in a work-related rehabilitation program at the time of the accident. If this is confirmed by the institution, WCB bases compensation on the usual earnings of an apprentice in the trade that is most similar to the training provided by the rehabilitation program.

15. *How are earnings determined for inmates of a provincial correctional institute?*

If the inmate was disabled and receiving compensation prior to incarceration, the earnings base remains the same and compensation continues for as long as the disability lasts.

If an inmate is injured while working for an employer in an industry to which the WCA applies, the inmate is considered a worker of that employer. WCB bases compensation on the actual earnings paid for the work.

If an inmate is injured while working in or out of the institution or facility in an industry to which the WCA does not apply, the inmate is considered to be a worker of the Alberta Provincial Government. WCB determines earnings as follows:

- while the worker is an inmate, WCB bases compensation on the actual wages paid to the worker at the time of the accident

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Inmates (continued)

- if the worker is still disabled at the time of release from the correctional facility, WCB compares the actual earnings to the wages of a similarly employed person who is not an inmate, and bases compensation on the **greater** of the two.

An exception to the above occurs when the inmate is participating in a work-related rehabilitation program at the time of the accident. If this is confirmed by the correctional facility, WCB bases compensation on the usual earnings of an apprentice in the trade that is most similar to the training provided by the rehabilitation program.

16. *How are earnings determined for individuals considered workers of the Provincial Government under s.7(1)(d) of the WC Regulation?*

For compensation purposes, the earnings of individuals deemed to be workers of the Alberta Provincial Government under s.7(1)(d) of the *WC Regulation* are considered to be:

- a) when a worker has regular employment, compensation is based on the earnings from that employment, up to any maximum compensable earnings in effect on the date of accident
- b) when a worker has no regular employment, WCB will fix a reasonable rate of earnings on which to base compensation, keeping in mind current earnings of workers employed in similar occupations and the hours of service provided.

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17. *How does WCB establish earnings for workers who are new to or re-entering the workforce?*

Even when the worker is a new entry to the workforce (has no employment history), WCB is usually still able to calculate the worker’s net earnings. For example, when a new worker who is paid an hourly wage is injured, WCB bases earnings on the wage rate and the agreed hours of work. Consequently, even if the worker is injured during the first pay period, WCB has sufficient information to establish a compensation rate.

However, if in WCB’s opinion there is insufficient earnings history to calculate the worker’s net earnings, s.56(6) of the WCA allows WCB to use a base other than the worker’s earnings. When this occurs, WCB will base earnings on those of a similarly employed worker in the same occupation in similar circumstances (for example, geographical location).

WCB will consider basing earnings on those of a similarly employed worker when **ALL** of the following conditions are met:

- a) the worker is either a new entrant to the workforce or re-entering the workforce after an absence of more than 12 consecutive months
- b) the worker’s earnings history is not representative of current earnings loss
- c) the worker has been employed in the occupation for less than one calendar month
- d) the worker is paid on the basis of work completed (e.g., piecework or commission) instead of a pre-determined wage

WCB may consider different time periods for (a) and (c), based on the merits of the case.

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This provision does not apply in situations where the worker has a pattern of occasional casual work. In these cases, the sporadic nature of the worker's employment is the earnings pattern and compensation is based on those earnings.

If the work injury results in permanent disability, compensation will not be less than the legislated minimum compensation for permanent disability [s.56(11)].

18. When is this policy application effective?

This policy application (Application 2 – Special Circumstances) is effective April 1, 2020, except when noted otherwise in a specific policy section(s).

Previous versions

- [Policy 0401 Part II - September 2018](#)
- [Policy 0401 Part II - April 2018](#)
- [Policy 0401 Part II - August 2015](#)
- [Policy 0401 Part II - December 2014](#)
- [Policy 0401 Part II - January 2014](#)
- [Policy 0401 Part II - January 2010](#)
- [Policy 0401 Part II - January 2, 2004](#)
- [Policy 0401 Part II - January 1, 2004](#)
- [Policy 0401 Part II - April 2002](#)
- [Policy 0401 Part II - January 2002](#)
- [Policy 0401 Part II - June 2001](#)
- [Policy 0401 Part II - March 1999](#)
- [Policy 0401 Part II - October 1997](#)
- [Policy 0401 Part II \(consolidated manual 1st Issue\) - February 1997](#)