

**Alberta WCB
Policies &
Information**

Chapter:

BENEFITS

Subject:

PERMANENT DISABILITY

Authorization:

BoD Resolution 2017/08/32

Date:

December 22, 2017

**APPLICATION 4: ECONOMIC LOSS PAYMENT - DATES OF ACCIDENT FROM
JANUARY 1, 1995, TO DECEMBER 31, 2017, INCLUSIVE**

- 1. *What is the purpose of an Economic Loss Payment?***

The Economic Loss Payment (ELP) compensates the worker for loss of earnings if the injury results in compensable permanent work restrictions that cause an impairment of earning capacity.
- 2. *Who is eligible for an Economic Loss Payment?***

To qualify for an ELP, the worker must meet the following conditions:

 - the date of accident is on or after January 1, 1995, and on or before December 31, 2017 (see Application 3 for accidents occurring on or after January 1, 2018), and
 - the worker has an impairment of earning capacity due to permanent compensable work restrictions (see Part I, 3.0 –Impairment of Earning Capacity and Application 1, Determining Impairment of Earning Capacity).
- 3. *How does WCB calculate the Economic Loss Payment?***

The Economic Loss Payment is 90% of the difference between:

 - a) the worker's pre-accident net earnings, calculated in accordance with the *WCA* and the *WC Regulation*,
 - and**
 - b) the greater of the worker's post-accident actual net earnings or estimated post-accident net earning capacity, calculated in accordance with the *WCA* and the *WC Regulation*.

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*Calculating Economic Loss
Payments (continued)*

Subject to periodic review, the ELP is then normally paid until age 65 (or retirement age), at which time it is adjusted to reflect the impact on retirement income.

The only exceptions are workers with 100% permanent clinical impairment and workers presumed to be 100% permanently disabled under s.43(2) of the *WCA*. In these cases, WCB does not deduct any post-accident earnings, nor does it adjust the ELP at age 65.

4. How frequently is an ELP reviewed?

The ELP is reviewed 36 months after it is first awarded. After the 36-month review, WCB will normally review the ELP annually until the worker reaches retirement age (see Question 9). If WCB decides annual reviews are not necessary in a particular circumstance (for example, if the worker is very severely disabled and it is clear the worker's impairment of earning capacity will not change), WCB may schedule reviews less frequently or suspend annual reviews.

In some cases, WCB may conduct interim reviews before the 36-month review.

*Before the 36-month
review*

The following situations are examples of when WCB may conduct interim reviews:

- the worker or accident employer requests an interim review
- the worker is in an apprenticeship program
- the worker is expected to have significant changes in earnings before the 36-month review

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*Worker reaches
retirement age before
the 36-month review*

If a worker reaches retirement age (normally age 65) before the 36-month review, WCB will not conduct the review. Instead, benefits will be adjusted according to the retirement age adjustment formula.

**5. *What earnings are
considered for the review?***

WCB will normally consider gross earnings from all employment sources for the full review period. At the 36-month review, for example, WCB will require confirmation of the worker's earnings for the last three years.

After the 36-month review, workers must submit the required earnings information annually until WCB notifies them that it is no longer necessary. This will ensure there are no interruptions in benefits.

**6. *When will WCB adjust or
terminate an ELP?***

WCB may increase or decrease an ELP if the review findings show the worker's earning capacity differs from the previous estimate. Increases will only be considered if the worker's reduced earning capacity is due to the compensable work restrictions.

WCB will terminate an ELP if new evidence indicates the worker's earning capacity is not impaired by compensable work restrictions.

**7. *If an ELP adjustment is
required, when is it
effective?***

If the adjustment is a consequence of the 36-month or other scheduled review, increased benefits will normally be effective the date of the review anniversary. Decreased benefits will normally be effective the date the review is completed, unless the review was delayed by the worker's conduct, in which case the adjustment will be effective the date the review is scheduled.

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*ELP adjustment effective
date (continued)*

If new evidence indicates the ELP determination was based on incorrect information or if the review is ad hoc (for example, at the request of the worker or employer), Policy 01-08, *New Evidence*, will apply.

8. *Will the ELP be terminated or adjusted if the worker leaves Alberta or Canada?*

ELP will normally continue if the worker leaves the province or country. ELP is based on impairment of earning capacity, and it is reasonable to assume the worker’s permanent work restrictions will continue to impair earning capacity regardless of the place of residence.

Workers who leave the province or country are still subject to the same reviews as workers who live in Alberta, and an ELP may be adjusted or terminated as discussed in Question 6.

ELP will not be increased if the economic conditions in the new place of residence result in reduced earnings. WCB will estimate earning capacity as though the worker had continued to work in suitable employment in Alberta.

9. *Why is the ELP adjusted at retirement age?*

At retirement, the impact on earning capacity is reduced as wages are replaced by pension/retirement income. The ELP is adjusted to reflect the changed earning capacity by using a formula similar to that used for standard retirement pensions.

Age 65 is commonly considered to be normal retirement age, and the ELP will be adjusted when the worker reaches age 65 unless there is sufficient and satisfactory evidence to show that the worker would have continued to work past that age if the injury had not occurred.

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10. *What is considered sufficient and satisfactory evidence that a worker would have continued to work past age 65?*

As with any adjudicative issue, the decision will be made on the balance of probabilities. Workers are not required to provide absolute proof, however, there must be some independent evidence that the worker intended to work after age 65, and would have done so if not for the compensable injury.

Examples of satisfactory independent evidence include:

- confirmation from the worker’s accident employer, union, or other independent employment source that the worker had planned to continue after age 65 and employment was available
- continued employment post-age 65 at the same level and earnings as pre-age 65 [for example, a 51 year old worker with compensable permanent work restrictions returns to work with reduced earning capacity and is paid an ELP. The worker continues to work at that level (same type of work, same hours) until age 69]
- continued employment post-age 65 at reduced earnings, when it is clear that the further reduction is due to a deterioration of the compensable work restrictions, rather than a personal choice of semi-retirement.

WCB will also consider any other relevant factors such as the normal retirement age for workers in the same pre-accident occupation.

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11. *Will WCB adjust the ELP earlier than age 65 if a worker chooses early retirement?*

WCB will not apply the retirement adjustment to ELP until the worker reaches age 65, as the injury may have been a factor in the worker’s decision to retire or to not pursue other employment. However, if the worker would have been expected to have significant increases in earnings if he or she had continued in the workforce, WCB may review and adjust the worker’s ELP, based on the estimated earning capacity (see Questions 4 and 6 in this Application, and Application 1, Question 4).

12. *How is the retirement adjustment calculated?*

To estimate the impact of the disability on the worker’s retirement income (due to the reduced opportunity to contribute to retirement plans), economic loss payments will be adjusted according to the following formula:

Average Annual Compensation* x (Number of years of compensable earnings loss [to a maximum of 35 years] x 2%)

* Average Annual Compensation is based on economic loss payments for the five-year period ending with the month in which the worker reaches retirement age. If the economic loss payment has been in effect for less than five years, the annual average will be calculated using the actual period the payment was in effect.

The adjusted benefits will normally be payable on a monthly basis for the lifetime of the worker.

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**APPLICATION 4: ECONOMIC LOSS PAYMENT - DATES OF ACCIDENT FROM
JANUARY 1, 1995, TO DECEMBER 31, 2017, INCLUSIVE****13. *Are periods of temporary disability included in the retirement adjustment?***

Periods of temporary disability are included when calculating the number of years of compensable earnings loss. For example, a worker injured at age 50 who receives 2 years of temporary benefits followed by 13 years of ELP has a total of 15 years of compensable earnings loss.

Periods of temporary disability are not included when calculating the Average Annual Compensation. This amount is based on ELP, and is an average of the last five-year period (or shorter period if applicable).

14. *Does the retirement adjustment apply to workers who are permanently totally disabled?*

Benefits will not be adjusted at retirement age if the worker has a 100% clinical impairment, or if the worker is conclusively presumed to be permanently totally disabled under s.43(2) of the *WCA*.

15. *When is this policy application effective?*

This policy application (Application 4 – Economic Loss Payment – Dates of Accident from January 1, 1995, to December 31, 2017, inclusive) is effective January 1, 2018, except when noted otherwise in a specific policy section(s).

Previous versions

- [Policy 0404 Part II, Application 4 - January 2018](#)
- [Policy 0404 Part II, Application 3 - August 2015](#)
- [Policy 0404 Part II, Application 3 - January 2004](#)
- [Policy 0404 Part II, Application 3 - June 2003](#)
- [Policy 0404 Part II, Application 3 - January 2002](#)
- [Policy 0404 Part II, Application 3 - October 2001](#)
- [Policy 0404 Part II, Application 3 - June 2001](#)
- [Policy 0404 Part II, Application 3 - September 1999](#)
- [Policy 0404 Part II, Application 3 \(consolidated manual 1st Issue\) - February 1997](#)