

**Alberta WCB
Policies &
Information**

Chapter:

BENEFITS

Subject:

DUTY TO COOPERATE

Authorization:

BoD Resolution 2021/02/09

Date:

March 22, 2021

REFERENCE:

[Workers' Compensation Act, RSA 2000, Sections 32, 33, 34, 38, 39, 40, 54, 89.1, 89.2, 89.3, and 152.1](#)

POLICY:

Successful recovery from a work injury and a successful return to work rely on collaboration between all parties including, but not limited to, injured workers, employers, treatment providers, and WCB.

Parts of this collaboration are specific requirements under the *Workers Compensation Act (WCA)*, while others are best practices that facilitate effective treatment and return to work. Specific requirements under the *WCA* include *reporting requirements, attendance and participation in medical treatment, and a duty to cooperate in return to work.*

This policy is effective April 1, 2021, and, as of that date, applies to all claims regardless of the date of accident unless noted otherwise in a specific policy section(s).

INTERPRETATION

1.0 Reporting Requirements

Sections 32, 33, and 34 set out specific duties and timelines for reporting work accidents for employers, workers, and physicians. Policy 01-05, *Recording and Reporting Accidents*, addresses these duties in detail.

2.0 Attendance and Participation in Medical Examinations and Treatment

When a worker makes a claim for compensation or at any point during the life of the claim, the worker may be required to have a medical examination so WCB can determine entitlement to compensation. Under s.39(1), the worker's employer can also ask WCB to arrange for a medical examination and, if WCB agrees, the worker is required to attend.

In addition to attending required medical examinations, workers have a responsibility under s.54 to cooperate in

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2.0 Medical Examinations and Treatment (continued)

their medical treatment by accepting medical treatment that, based on independent medical advice, WCB considers reasonably essential for the worker's recovery. Workers also have a responsibility to avoid activities and behaviours that could prevent or delay their recovery.

3.0 Duty to Cooperate in Return to Work

Employers and workers both have a duty to cooperate in return to work.

Under s.89.1, workers have a duty to take all reasonable action to mitigate any earnings loss caused by work injury and, if circumstances require it, to cooperate with WCB in the development of vocational or other rehabilitation plans.

Under s.89.2, employers have a duty to cooperate with the worker and WCB in efforts to achieve the worker's early and safe return to work.

The duty to cooperate under s.89.1 and s.89.2 has some similarities with the duty to accommodate and reinstate that existed under s.88.1 and was repealed as of April 1, 2021 (see Policy 04-05, Part II, Applications 2 and 3). Both provisions have the goal of achieving the injured worker's early and safe return to employment; however, there are differences, including the following:

- Instead of the rigid process dictated by s.88.1, WCB will focus on whether the employer and worker have made reasonable, good faith, efforts to cooperate in the return-to-work process
- When a worker has fully recovered from the work injury and returned to their date of accident employment, the employer's and worker's duty to cooperate under the *WCA* ends
- Workers now have an explicit duty to take reasonable action to mitigate their loss of earnings due to their injury.

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Please see Part II for additional information on the following subjects:

Application

1 – [General](#)