

**Alberta WCB
Policies &
Information**

Chapter:

COST AND ENTITLEMENT ADJUSTMENTS

Subject:

COMPENSATION OVERPAYMENTS

Authorization:

Date:

BoD Resolution 2018/02/17

April 17, 2018

APPLICATION 1: GENERAL

1. *Must all overpayments be repaid?*

WCB reviews each overpayment to determine whether to recover or cancel the overpayment. The decision is based on the circumstances that resulted in the overpayment and the recipient.

2. *When will WCB recover overpayments?*

WCB normally recovers overpayments in the following circumstances:

- a) Deliberate misrepresentation (see Question 4)
- b) Duplication of earnings and benefits (see Question 7)
- c) Errors that are identified within 2 weeks of the first excess payment (see Question 8)
- d) An accident that was initially accepted was later determined to not be under the jurisdiction of the WCA (see Question 9)
- e) An overpayment for reimbursement of health benefit expenses under s.88.2 (see Question 10)

3. *When will WCB cancel overpayments?*

Unless there was deliberate misrepresentation, WCB normally cancels overpayments paid to workers or their dependants that result from the following circumstances:

- a) a previous entitlement decision is changed due to a reconsideration by WCB (see Policy 01-08), review by the DRDRB, or decision of the Appeals Commission [except 2(d), above]
- b) administrative error, except in circumstances covered in Question 2

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4. *What is deliberate misrepresentation?*

Deliberate misrepresentation is any action or misinformation which, in WCB’s opinion, constitutes a willful attempt to obtain benefits a worker or dependant is not entitled to.

Deliberate misrepresentation includes knowingly providing false or misleading information; failing, without reasonable excuse, to report return to work or a material change in circumstances that may affect entitlement to compensation or other benefits; or any other information provided or withheld with the intent to deceive.

Deliberate misrepresentation **does not** include incorrect information which is given in good faith.

*Overpayment
Recovery*

WCB will not, in any circumstances, cancel or defer an overpayment resulting from deliberate misrepresentation.

5. *Will WCB take legal action if there is deliberate misrepresentation?*

If WCB finds that any party (worker or dependant, employer, healthcare provider, etc.) has attempted to obtain or deny benefits by deliberately providing false information, the claim will be referred to WCB Special Investigations Unit to determine whether WCB should pursue criminal charges for fraud.

6. *Will WCB pursue criminal charges for fraud if the overpayment is repaid?*

Repayment of the overpayment will not affect WCB’s decision to proceed with criminal charges.

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7. *What is a duplication of employment earnings and WCB benefits?*

Duplication occurs when a worker has earnings from work and also receives benefits (usually temporary total or partial disability) to replace the same earnings.

While this may be because a worker deliberately gives incorrect return-to-work information, it can also be quite unintentional. For example, benefits are sometimes paid in advance, up to the expected return-to-work date. If the worker recovers and returns to work more quickly than expected, an overpayment results.

Similarly, an overpayment may occur if a worker increases work hours more quickly than originally planned on a temporary modified work program, or if an employer makes an error when reporting a return-to-work date.

Duplication of earnings and benefits does not include compensation rate-setting errors. Overpayments resulting from compensation rate-setting errors are adjudicated under Question 3 (administrative errors), Question 4 (if there was deliberate misrepresentation) or Question 8 (if the error is discovered within 2 weeks of the first excess payment).

*Overpayment
Recovery*

If the overpayment resulted from a duplication of earnings and WCB benefits, WCB will recover the overpayment amount, with the possible exception of amounts under \$100.

If the amount is under \$100, and it appears there was no intention of deceiving WCB, WCB has the discretion to cancel the overpayment.

8. *What if an overpayment error is discovered within two weeks of the first excess payment?*

When an error is identified within two weeks of the first excess payment, WCB will recover the overpayment if the claim is still active and the worker or dependant is still receiving compensation benefits.

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9. *When would a claim that was initially accepted, later be refused?*

Injuries resulting from an incident that was initially accepted as a workers' compensation claim may later be refused if new evidence shows that:

- the injured individual was not in the course of employment when the incident occurred
- the incident did not arise out of the injured individual's employment
- the injured individual's employer was not operating in an industry covered under the WCA

For more information about when incidents causing injury are considered work-related, see Policy 02-01, *Arises out of and Occurs in the Course of Employment*.

*Overpayment
Recovery*

Provided there was no intention of deceiving WCB, WCB will only request repayment from the injured party if the injured party successfully recovers damages from a third party through a lawsuit.

In these circumstances, the amount WCB recovers will not exceed the proportion it would have recovered if the action had been vested in WCB (see G-3, *Third Party Actions*).

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10. *What if there is an overpayment to a worker for reimbursement of health benefit expenses incurred?*

If an employer fails to make contributions for health benefits as required under s.88.2 and the worker incurs expenses for health services that would have been covered by the benefit plan, WCB will reimburse the worker for the expense. WCB only reimburses the actual expenses incurred by the worker, up to the amount that would have been covered by the health benefit plan. If there is an overpayment, WCB will recover the overpayment amount.

For more information about continuation of employment health benefits, see Policy 04-02, Part II, Application 4.

11. *What repayment terms are available?*

If the worker or dependant is not able to repay the amount in a single lump sum, WCB may allow repayment by reasonable negotiated installments. The method of repayment may include deductions from current or future benefits.

12. *What if the benefits were paid on assignment to the worker's employer?*

When an overpayment is made on benefits assigned to the employer, WCB may recover the amount from the employer, the worker, or partially from both.

In these circumstances, any recovery is subject to the criteria in Question 2, a through e.

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13. *What if the person responsible for repaying the overpayment defaults on the payment?*

If the person responsible for repaying the overpayment defaults, WCB will follow its normal collection procedures. This may include issuing a certificate of default and registering a financing statement in the Personal Property Registry.

If WCB issues a certificate of default against a worker or dependant, it will not act on the certificate until at least 60 calendar days after the date of the decision that resulted in the overpayment. If the worker or dependant requests a review (s.46) or appeal (s.13.2) of the decision within that 60 days, WCB will wait for the outcome of the review or appeal before acting on the certificate of default. This 60-day time frame does not affect the one-year window for review or the two-year window for appeal granted by the WCA.

14. *Will overpayments be removed from the employer's experience record?*

WCB will remove overpayments from the employer's experience record, provided the employer did not contribute to the overpayment by providing incorrect information.

15. *When is this policy application effective?*

This policy application (Application 1 – General) is effective September 1, 2018, and applies to all decisions and administrative reviews on or after that date, except when noted otherwise in a specific policy section(s).

[Document History](#)

Previous versions

- [Policy 0501 Part II - April 2018](#)
- [Policy 0501 Part II - August 2015](#)
- [Policy 0501 Part II - January 2013](#)
- [Policy 0501 Part II - June 2010](#)

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- [Policy 0501 Part II - March 2006](#)
- [Policy 0501 Part II - January 2004](#)
- [Policy 0501 Part II - October 2002](#)
- [Policy 0501 Part II - January 2002](#)
- [Policy 0501 Part II \(consolidated manual 1st Issue\) - February 1997](#)