

**Alberta WCB
Policies &
Information**

Chapter:

PRICING

Subject:

EXPERIENCE RECORDS

Authorization:

BoD Resolution 2021/06/22

Date:

November 30, 2021

APPLICATION 6: THIRD PARTY RECOVERIES

1. *What is a third party, and how is an employer's experience record affected by a third-party recovery?*

For WCB purposes, a third party is a person not covered under the WCA who causes or contributes to an accident.

When action against a third party results in a settlement or judgment, the employer's experience record may be credited for the greater of:

- the amount actually received by WCB for claim costs, or
- an amount equivalent to the percentage of liability for the accident which is attributed or attributable to third parties.

For example, a worker is injured when the pilot car the worker is driving is broadsided by a car driven by a person not covered under the WCA. WCB charges the full amount of the claim to the experience record of the worker's employer. The driver of the other vehicle is neither a worker nor an employer and is therefore not protected. WCB recovers the full amount of the claim from the other driver's insurance company and credits the experience record of the injured worker's employer with the full amount of this settlement.

Where WCB is unable to recover its costs of a claim arising from a motor vehicle accident because the third party is unknown or uninsured, the costs of the claim may be relieved from the employer's experience record, provided WCB is satisfied it would have had a reasonable likelihood of success in recovering its costs had the third party been identified or insured.

A Restitution Order made by a court in a criminal or quasi-criminal matter is considered a judgment for the purposes of this policy.

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2. *Can a third-party recovery result in cost relief for more than one claim?*

When two or more workers of an employer are injured in the same accident and a settlement or judgment is received for one worker, WCB may relieve the costs of all or part of any additional claims arising out of the accident.

3. *Can an employer obtain cost relief before the settlement or judgment is awarded?*

Generally, cost relief is awarded only after the settlement or judgment is received. However, in the case of a motor vehicle accident, an employer may obtain full or partial cost relief before the settlement or judgment is received when all of the following conditions are met:

1. the employer requests early cost relief
2. WCB determines that
 - the likelihood of some recovery is clear, and
 - it appears the third party is at least 50% or more liable for the accident
3. the third party was insured at the time of the accident
4. the employer agrees that if that employer is determined to be wholly or partially liable for the accident, the corresponding claim costs will be reassigned to the experience record

4. *When is this policy application effective?*

This policy application (Application 6 – Third Party Recoveries) is effective January 1, 2022, except when noted otherwise in a specific policy section(s).

Previous versions

- [Policy 0702 Part II - January 2021](#)
- [Policy 0702 Part II - April 2018](#)
- [Policy 0702 Part II - August 2015](#)
- [Policy 0702 Part II - January 2004](#)
- [Policy 0702 Part II - January 2000](#)

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- [Policy 0702 Part II - March 1999](#)
- [Policy 0702 Part II \(consolidated manual 1st Issue\) - June 1998](#)