



Policy 04-04 – definition of permanent total disability (PTD)

As part of our policy project plan, we committed to reviewing entitlement for workers with catastrophic injuries not listed in section 43(2) of the *Workers' Compensation Act* (the Act) who also deserve access to the support they need throughout their lifetime. We are consulting with the public to define fair and balanced parameters for determining additional catastrophic injuries or injury outcomes that would entitle eligible workers to receive lifetime permanent total disability (PTD) benefits.

Issue

A catastrophic injury changes all aspects of an injured worker's life and their family's life. For some life-altering injuries, the impact extends beyond the workplace to such an extent that the Act makes a special compensation provision for six injuries that are conclusively presumed to result in PTD.

The Act does not define PTD. It also does not limit PTD to those six injuries or provide any guidance regarding criteria that would determine when a different catastrophic injury might be considered to result in PTD.

A clear and transparent definition of PTD is essential to ensuring the workers who need lifetime support from the workers' compensation system receive it consistently. While the vast majority of injured workers are well supported through the standard benefits available through non-economic payments (NELP) and economic loss payments (ELP), there is a small subset, recognized through the Act, whose lives are irrevocably impacted and whose needs and losses are greater.

PTD is an important concept as it can have significant financial implications for an injured worker. When PTD status is awarded:

- the worker's economic loss payments (ELP) are not adjusted or terminated at retirement age,
- the ELP is not offset by any post-accident earnings (i.e., they receive "full"/unreduced benefits), and
- the worker will receive the maximum non-economic loss payment (NELP).

Without a clear definition, there may be inconsistency in how PTD is viewed and in how benefits are awarded.

Current approach

Today, without a definition for guidance, there are two groups of workers who are awarded PTD status:

Category	Status	NELP	ELP
1. Workers whose permanent clinical impairment (PCI) has been assessed at 100% on one or more claims	PTD	Maximum NELP	Unreduced ELP for life (based on an estimate of zero future earnings), with no retirement adjustment
2. Workers with one of the six conditions presumed to result in PTD in legislation under s.43(2) of the Act: (a) total and permanent loss of the sight of both eyes; (b) the loss of both feet at or above the ankle; (c) the loss of both hands at or above the wrist; (d) the loss of one hand at or above the wrist and one foot at or above the ankle; (e) an injury to the spine resulting in permanent and complete paralysis of both legs, both arms or one leg and one arm;	PTD	Maximum NELP	Unreduced ELP for life (based on an estimate of zero future earnings), with no retirement adjustment



Category	Status	NELP	ELP
(f) an injury to the central nervous system resulting in mental incompetence that renders the worker incapable of being gainfully employed			

What we propose

We propose that, in addition to awarding PTD status to workers with 100% PCI rating, workers will also be awarded PTD status if they have a PCI greater than or equal to 75% to less than 100% who are incapable of participating in employment as a direct result of their compensable injuries. The purpose of this change is to recognize that workers who meet these two criteria have sustained catastrophic injuries that disrupt all aspects of their lives, similar to workers with 100% PCI.

To qualify, the worker must meet both of the following criteria:

1. **The worker has a PCI rating greater than or equal to 75% and less than 100%.** Any combination of multiple injuries on one or several claims totalling $\geq 75\%$ and $< 100\%$ PCI would be included.
2. **As a direct result of the compensable injury, the worker is incapable of participating in employment.** This is defined as an inability to perform work unless the work is so limited in quality, dependability, or quantity that a reasonably stable availability of such work does not exist in the general labour market. A worker is *incapable of participating in employment* if they have a permanent inability to safely perform any work tasks due to severe and prolonged compensable functional, cognitive, or psychological limitations, AND they are permanently unable to perform:
 - o any work tasks without significant supervision, OR
 - o the tasks of daily living and self-care without supervision.

There would be no change to the benefits received by workers who are currently eligible for PTD status. The change would allow additional workers to also receive PTD status. These additional workers would receive:

- an unreduced ELP for life (based on zero future earnings), with no adjustment at retirement age, and
- a NELP based on their assessed PCI of $\geq 75\%$ and $< 100\%$.

Summary of proposed policy change

Under the proposed policy change, the following workers would receive PTD status:

Category	Status	NELP	ELP
1. Workers with 100% PCI OR Workers with $\geq 75\%$ to $< 100\%$ PCI who are also incapable of participating in employment	PTD	Proportion of maximum NELP based on assessed PCI	Unreduced ELP for life (based on an estimate of zero future earnings), with no retirement adjustment



2. Workers presumed PTD under s. 43(2)	PTD	Maximum NELP	Unreduced ELP for life (based on an estimate of zero future earnings), with no retirement adjustment
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Rationale

When a worker has 100% PCI, their injuries can reasonably be described as catastrophic, impacting not only employability but also everyday life. These two components are reflected in wage loss replacement (ELP) and PCI ratings. When considering who should be awarded PTD status in addition to workers who have a PCI rating of 100%, we looked at the *clinical impairment* and the *impact on earning capacity*.

Clinical impairment

PCI ratings represent the degree to which a worker's ability to perform common activities of daily living (ADL), *excluding work*, has been impacted by their work-related injury.

In reaching the recommendation to use PCI of $\geq 75\%$ and $< 100\%$, we considered the following:

- The primary purpose of the PTD designation is to provide additional financial assistance during the worker's lifetime, recognizing not just the impact on wages, but also on day-to-day life.
- The severity of the injury should be reasonably comparable to the severity of injuries listed in s.43(2).
- The *American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment* describe 90% to 100% whole person impairment as "totally dependent on others for care" and/or "approaching death." This description is a clear indication that a threshold of 90% or more would be too high, as it would only benefit those totally dependent on others for care.

At 75% clinical impairment, the impact of the workplace injury or illness on daily living is significant. This supports using 75% as the minimum threshold PCI rating for consideration of PTD status.

Impact on earning capacity

The impact impairment has on earning capacity depends on individual circumstances. The degree of permanent clinical impairment by itself is not a predictor of a worker's post-accident earning capacity.

In this context, we consider whether the worker is "incapable of participating in employment," defined as an inability to perform work in any capacity other than work that is so limited in quality, dependability, or quantity that a reasonably stable availability of such work does not exist in the general labour market, as evidenced by a permanent inability to safely perform any work tasks due to severe and prolonged compensable functional, cognitive, or psychological limitations; AND

- any work tasks without significant supervision; OR
- the tasks of daily living and self-care without supervision.

Workers who are not capable of participating in employment are entitled to receive a "zero based" ELP (the amount of the ELP is based on "full"/unreduced benefits).



Not all workers who receive a zero-based ELP are incapable of participating in employment. A zero-based ELP may be awarded due to a combination of factors in addition to medical disability, including location, non-compensable conditions, and lack of transferable skills.

Effective date and policy application

An effective date for the proposed policy is yet to be determined; however, we propose that, if approved by the Board of Directors, the new definition will apply going forward, to claims with a date of accident on or after the approved effective date.

Financial impact

We estimate the proposed policy change would result in a small increase of approximately **\$2.3 million per year** to the fully-funded claim cost for future injury years. This amount would not have any significant impact on the required employer premium rate (less than \$0.01 per \$100 of assessable earnings).

We want to hear from you

Please see the following draft policies attached at the end of this document for additional details:

- Policy 04-04, Part I
- Policy 04-04, Part II, Application 2
- Policy 04-04, Part II, Application 3

Note: The addition of this information resulted in considerable reformatting. We also took the opportunity to reword some of the existing information for clarity, without changing the meaning or concepts of the existing information. For readability, the attached drafts do not use track changes. For convenience, content related to the definition of PTD has been highlighted in yellow.

We welcome your feedback, ideas, and suggestions.

This posting will be open until **July 8, 2024**.

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REFERENCE:

[*Workers' Compensation Act, RSA 2000, Sections 17, 43, 47, 48, 56, 56.1, 59, 60, 60.1, 63, and 89*](#)
[*Workers' Compensation Regulation, Section 1*](#)

POLICY:

When a compensable accident results in *permanent disability*, WCB provides *permanent disability benefits* to the worker for any *measurable permanent clinical impairment* and for any *impairment of earning capacity* attributable to the compensable injury.

This policy is effective **XXX**, except when noted otherwise in a specific policy section(s).

INTERPRETATION

1.0 Permanent Disability

A worker is considered to have a permanent disability when a work injury results in:

[Policy 04-04, Part I, 1.0](#)

- a permanent measurable clinical impairment, or
- an impairment of earning capacity due to permanent compensable work restrictions, or
- both.

Permanent disability may be either *total* or *partial*.

Permanent Partial Disability (PPD)

Permanent partial disability (PPD) is any permanent disability other than those defined below for permanent total disability.

Permanent Total Disability (PTD)

A worker is determined to have a permanent total disability when:

- 1) the worker suffers a compensable injury listed in s.43(2) of the *WCA*, or

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Permanent Total Disability (continued)

*This policy section
applies to all claims
with a date of accident
on or after XXX*

2) the worker has a 100% permanent clinical impairment, or both of the following criteria are met:

- a) the worker has a compensable injury or combination of injuries with a permanent clinical impairment greater than or equal to 75% and less than 100%, AND
- b) as a direct result of the compensable injury(ies), the worker is not capable of participating in employment (see below).

If the criteria for PTD status is reached after retirement or the worker retired prior to disablement, PTD status is not applied.

Incapable of participating in employment

In this policy, incapable of participating in employment is defined as an inability to perform work unless the work is so limited in quality, dependability, or quantity that stable work does not exist in the general labour market. This occurs when the worker is permanently unable to safely perform any work tasks due to severe and prolonged compensable functional, cognitive, or psychological limitations, AND they are permanently unable to perform:

- any work tasks without significant supervision, or
- the tasks of daily living and self-care without supervision.

2.0 Permanent Disability Benefits

[Policy 04-04, Part I, 4.0](#)

When an accident occurs on or after January 1, 1995, WCB provides the following permanent disability benefits:

- a non-economic loss payment (NELP), which is a lump sum payment based on the measurable clinical impairment
- an economic loss payment (ELP), which is a periodic payment based on the loss of earning capacity caused by the disability. Economic loss payments are adjusted to reflect changes to impairment of earning capacity

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2.0 Permanent Disability Benefits (continued)

and end if the impairment of earning capacity ends, except in the case of permanent total disability.

The method of calculating permanent disability benefits depends on the date of accident:

- For injuries occurring on or after January 1, 2018, workers may be entitled to:
 - Non-economic loss payment (see Application 2)
 - Economic loss payment (see Application 3)
- For injuries occurring from January 1, 1995, to December 31, 2017, inclusive, workers may be entitled to:
 - Non-economic loss payment (see Application 2)
 - Economic loss payment (see Application 4)
- For injuries occurring prior to January 1, 1995, workers may be entitled to:
 - Permanent disability award (pension) (see Application 5)
 - Earnings loss supplements (see Application 6)
 - Permanent injury award (see Application 10)

3.0 Measurable Permanent Clinical Impairment

[Policy 04-04, Part I, 2.0](#)

A permanent clinical impairment is determined by a physician, and is expressed as a percentage of total impairment. It is considered measurable if it is equal to or greater than 0.4%, based on the approved WCB rating schedule. (See Appendix D, Alberta Permanent Clinical Impairment Guide, for further details.)

For the purpose of this policy, the approved WCB rating schedule is the Alberta Permanent Clinical Impairment Guide dated June 1, 1996 (the Alberta Guides), with amendments up to and including the date of the permanent clinical impairment assessment.

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3.0 Measurable Permanent Clinical Impairment (continued)

If, in WCB's opinion, the Alberta Guides are silent as to the impairment, the physician may rely on the most current edition of the American Medical Association Guides for the Evaluation of Permanent Impairment (the AMA Guides). When a new edition is published, WCB will designate an effective date, as close as practicable to the date of publication, for use of the new edition (see Addendum B).

The edition of the AMA Guides designated in Addendum B applies regardless of the date of accident or whether the evaluation of permanent impairment is the result of a reconsideration or an appeal.

This policy section applies to all permanent clinical impairment decisions made on or after July 6, 2001. WCB will not reassess a permanent clinical impairment simply because a different rating guide was used previously.

4.0 Impairment of Earning Capacity

[Policy 04-04, Part I, 3.0](#)

WCB determines an impairment (loss) of earning capacity by assessing the impact permanent compensable work restrictions will have on the worker's ability to earn in any suitable employment (see Application 1, Question 3).

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

Application

- 1 – [Determining Impairment of Earning Capacity](#)
- 2 – [Non-Economic Loss Payment - Injuries on or after January 1, 1995](#)
- 3 – [Economic Loss Payment – Dates of Accident on or after January 1, 2018](#)
- 4 – [Economic Loss Payment – Dates of Accident from January 1, 1995, to December 31, 2017, Inclusive](#)
- 5 – [Injuries prior to January 1, 1995](#)
- 6 – [Earnings Loss Supplements](#)

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- 7 – [Enhancement Factor](#)
- 8 – [Lump Sum Commutations](#)
- 9 – [Permanent Disability Benefit Advances](#)
- 10 – [Permanent Injury Award - Injuries from January 1, 1985 to December 31, 1994, Inclusive](#)

Addendum

[Addendum A – Maximum Non-Economic Loss Payments](#)[Addendum B – Effective Date for use of New Editions of the AMA Guides](#)

Previous versions

- [Policy 0404 Part I - April 2018](#)
- [Policy 0404 Part I - January 2018](#)
- [Policy 0404 Part I - August 2015](#)
- [Policy 0404 Part I - May 2008](#)
- [Policy 0404 Part I - January 2004](#)
- [Policy 0404 Part I - June 2003](#)
- [Policy 0404 Part I - January 2003](#)
- [Policy 0404 Part I - June 2002](#)
- [Policy 0404 Part I - January 2002](#)
- [Policy 0404 Part I - July 2001](#)
- [Policy 0404 Part I - June 2001](#)
- [Policy 0404 Part I - September 1999](#)
- [Policy 0404 Part I \(consolidated manual 1st Issue\) - February 1997](#)

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APPLICATION 2: NON-ECONOMIC LOSS PAYMENT - INJURIES ON OR AFTER JANUARY 1, 1995

1. ***What is the purpose of the non-economic loss payment?***
[Policy 04-04, Part II, Application 2, Question 1](#)
 The non-economic loss payment (NELP) is paid in recognition that a permanent clinical impairment may also impact the worker's life outside the workplace.
2. ***Who is eligible for a NELP?***
[Policy 04-04, Part II, Application 2, Question 2](#)
 To be eligible for a NELP, the worker must meet the following conditions:
 - the date of accident is on or after January 1, 1995
 - the worker has a measurable permanent clinical impairment
3. ***What if the worker's compensable injury or condition results in death or the worker dies from unrelated causes?***
[Policy 04-04, Part II, Application 2, Question 3](#)
 As explained in Question 1, the intent of the NELP is to compensate the worker for the impact the injury has on the worker's life outside the workplace. Therefore, the worker is not eligible for a NELP when there is an immediate fatality. For this policy, "immediate fatality" is defined as death within 30 calendar days of the date of the work-related accident. The 30 calendar days include the date of accident.

 If, however, death is not immediate and it is clear the worker has or will have a permanent clinical impairment if they live, the worker is eligible for a NELP. If WCB is unable to assess the degree of permanent clinical impairment before the worker's death, it will base the assessment on the documentary medical evidence, using the WCB's approved rating method. When a worker's NELP is paid after the worker's death, it is paid to the worker's estate.

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4. *When does WCB determine the amount of the NELP?*

[Policy 04-04, Part II,](#)
[Application 2, Question 4](#)

With the exception of deteriorating conditions, WCB determines the value of a NELP at the medical plateau, when medical opinion indicates no further significant medical change is likely.

If the injury is a deteriorating condition, the NELP is assessed when the condition first stabilizes, and may be periodically reassessed as the condition deteriorates.

5. *How does WCB determine the degree of permanent clinical impairment?*

[Policy 04-04, Part II,](#)
[Application 2, Question 5](#)

The degree of permanent clinical impairment is determined by a physician, using WCB's approved rating schedule.

The clinical impairment rating on one claim or a combination of claims with dates of accident on or after January 1, 1995, cannot be greater than 100%.

6. *How does WCB calculate the NELP?*

[Policy 04-04, Part II,](#)
[Application 2, Question 6](#)

As the NELP is not intended to compensate the worker for lost earnings, the payment is not based on earnings.

The payment is paid as a lump sum based on the degree of permanent clinical impairment resulting from the compensable injury.

The maximum NELP payable is indicated in Addendum A of this policy.

When determining a payment, WCB uses a proportionate amount of the maximum NELP amount in effect on the date of the NELP evaluation (see Addendum A).

$NELP = PCI \% \times \text{maximum NELP}$

For example, if the maximum NELP is \$60,000 and the PCI is 2%, the payment will be \$60,000 x 2%, or \$1,200.

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Calculating NELP (continued)

If a worker has a PCI rating of 100% through one or more claims, they receive the maximum NELP amount.

There are three exceptions to the standard calculation of NELP outlined above:

- the worker has a PCI rating of 0.4% to less than 2% (the minimum NELP is 2% of the maximum. A worker with a PCI equal to or greater than 0.4% but less than 2% will receive a 2% payment)
- the worker has a PCI rating less than 0.4% (these workers do not receive a NELP)
- the worker's compensable injury is one of the six conditions presumed to result in PTD under s.43(2) of the *WCA* (these workers receive the maximum NELP amount)

Workers who are awarded PTD status under Part I due to having a PCI rating greater than or equal to 75% and less than 100% and an inability to participate in employment receive a NELP award proportionate to their PCI rating (greater than or equal to 75% and less than 100%).

7. *How is the minimum NELP applied if a worker becomes eligible for a NELP under a subsequent claim?*

[Policy 04-04, Part II,](#)
[Application 2, Question 7](#)

WCB generally considers each claim separately (unless the combined total exceeds 100% - see Question 5). For example, a worker who receives a minimum 2% award for a 1% permanent clinical impairment of a finger will receive another minimum 2% award for a 1% permanent clinical impairment of a different finger under a later claim.

However, if the later accident is to the **same** body part and site (for example, the same site on the same finger), WCB looks at the cumulative total of the actual clinical

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Minimum NELP and subsequent claim (continued)

impairment. As the worker has already received a 2% award for the permanent clinical impairment of that body part and site, WCB does not pay an additional NELP unless the cumulative compensable permanent clinical impairment is more than 2%. If the total is more than 2%, the additional NELP is based on the total percentage of permanent clinical impairment, minus 2%.

8. *Does WCB periodically adjust the maximum NELP?*

[Policy 04-04, Part II,
Application 2, Question 8](#)

Starting January 1, 1996, the maximum payment will be increased on the same date and by the same percentage as cost-of-living adjustments made pursuant to s.59 of the *WCA* (see Addendum A at the end of this policy).

9. *When is this policy application effective?*

This policy application (Application 2 – Non-Economic Loss Payment – Injuries On or After January 1, 1995) is effective **XXX**, except when noted otherwise in a specific policy section(s).

Previous versions

- [Policy 0404 Part II - January 2018](#)
- [Policy 0404 Part II - August 2015](#)
- [Policy 0404 Part II - December 2009](#)
- [Policy 0404 Part II - January 2004](#)
- [Policy 0404 Part II - June 2003](#)
- [Policy 0404 Part II - January 2002](#)
- [Policy 0404 Part II - October 2001](#)
- [Policy 0404 Part II - June 2001](#)
- [Policy 0404 Part II - September 1999](#)
- [Policy 0404 Part II \(consolidated manual 1st Issue\) - February 1997](#)

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APPLICATION 3: ECONOMIC LOSS PAYMENT - DATES OF ACCIDENT ON OR AFTER JANUARY 1, 2018

1. *What is the purpose of an economic loss payment?*

[Policy 04-04, Part II,](#)
[Application 3, Question 1](#)

An 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 ELP?*

[Policy 04-04, Part II,](#)
[Application 3, Question 2](#)

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

- the date of accident is on or after January 1, 1995 (see Application 4 for accidents from January 1, 1995, to December 31, 2017, inclusive)
- the worker has an impairment of earning capacity due to permanent compensable work restrictions (see Part I, 4.0 – Impairment of Earning Capacity and Application 1, Determining Impairment of Earning Capacity)

3. *How does WCB calculate the ELP?*

[Policy 04-04, Part II,](#)
[Application 3, Question 3](#)

The ELP 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*.

Subject to periodic review, the ELP is then normally paid until retirement age (see Question 12), at which time it is adjusted to reflect the impact on retirement income.

The only exception is workers with a permanent total disability (see Part I, 1.0). In these cases, WCB does not deduct any post-accident earnings, nor does it adjust the

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Calculating economic loss payments (continued)

ELP at retirement age. If the criteria for PTD status are reached after normal retirement age (see Question 12) or if the worker retired prior to disablement, PTD status is not applied.

4. *How are ELP costs charged to an employer's account?*

[Policy 04-04, Part II,](#)
[Application 3, Question 4](#)

As ELP is a permanent disability benefit, the costs are normally capitalized (an estimate of the lifetime cost) when the ELP is implemented and the capitalized costs are charged to the employer's account.

An exception is made to the above rule when WCB expects that the worker will regain pre-accident earning capacity within 6 years from the time the ELP is implemented. In these cases when the loss of earning capacity is expected to be temporary, the costs are not capitalized; instead, they are charged to the employer's account in the payment transaction year. To differentiate these claims, the non-capitalized ELPs are called temporary economic loss (TEL) benefits.

If it becomes apparent that a worker who is receiving TEL benefits will not regain pre-accident earning capacity within the 6-year period, the TEL is converted to an ELP and the capitalized cost is charged to the employer's account at that time. Benefits are also paid as a capitalized ELP if the worker is not expected to regain pre-accident earning capacity before reaching retirement age.

5. *Are ELP and TEL benefits different?*

[Policy 04-04, Part II,](#)
[Application 3, Question 5](#)

The worker receives exactly the same benefit, regardless of whether the economic loss payment is a capitalized ELP or a non-capitalized TEL. The only difference is that WCB may review the TEL more frequently, as it is expected that the worker will return to pre-accident earning capacity within a relatively short time period.

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6. *How frequently are ELP and TEL reviewed?*

[Policy 04-04, Part II,](#)
[Application 3, Question 6](#)

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 12). 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.

Because workers receiving TEL benefits are expected to regain their pre-accident earning capacity within a short time frame, TEL are normally reviewed annually, with the first review occurring 12 months after implementation.

In some cases, WCB may conduct ELP 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
- the worker's TEL is converted to an ELP

Worker reaches retirement age before the 36-month review

If a worker reaches retirement age (see Question 12) before the 36-month review, WCB will not conduct the review. Instead, benefits will be adjusted according to the retirement age adjustment formula (see Questions 11-18).

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

[Policy 04-04, Part II,](#)
[Application 3, Question 7](#)

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.

8. *When will WCB adjust or terminate an ELP/TEL?*

[Policy 04-04, Part II,](#)
[Application 3, Question 8](#)

WCB may increase or decrease an ELP/TEL 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/TEL if new evidence indicates the worker's earning capacity is not impaired by compensable work restrictions.

9. *If an ELP/TEL adjustment is required, when is it effective?*

[Policy 04-04, Part II,](#)
[Application 3, Question 9](#)

If the adjustment is a consequence of a 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.

If new evidence indicates the ELP/TEL 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.

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10. *Will the ELP/TEL be terminated or adjusted if the worker leaves Alberta or Canada?*

[Policy 04-04, Part II,](#)
[Application 3, Question 10](#)

ELP/TEL will normally continue if the worker leaves the province or country. ELP/TEL is based on permanent work restrictions, and it is reasonable to assume those work restrictions will continue to have a similar impact on earning capacity as they would have had in Alberta.

Workers who leave the province or country are still subject to the same reviews as workers who live in Alberta, and an ELP/TEL may be adjusted or terminated as discussed in Question 8.

ELP/TEL 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.

11. *How is ELP affected when a worker reaches retirement age?*

[Policy 04-04, Part II,](#)
[Application 3, Question 11](#)

At retirement, the impact on earning capacity is reduced as wages are replaced by pension/retirement income, and ELP is adjusted to reflect that change.

ELP is adjusted when the worker reaches normal retirement age* 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. The adjustment is intended to compensate for the lost opportunity to contribute to a retirement pension plan.

* See Question 18 for retirement income benefits for workers whose TEL or ELP was terminated because they regained pre-accident earning capacity before reaching retirement age.

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12. *How does WCB determine normal retirement age?*

[Policy 04-04, Part II,](#)
[Application 3, Question 12](#)

Age 65 is commonly considered to be normal retirement age, however, statistical data shows that, on average, a worker who is still in the work force at age 60 or older is likely to continue to work for several years. Based on this data, WCB considers normal retirement age to be age 65 or 5 years after the date of accident, whichever is later.

What this means is that workers whose date of accident is before their 60th birthday are considered to have reached normal retirement age on their 65th birthday. Workers whose date of accident is after their 60th birthday are considered to have reached normal retirement age on the 5th anniversary of the accident (for example, a worker who is 63 on the date of accident of January 18, 2018, will reach normal retirement age on January 18, 2023).

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

[Policy 04-04, Part II,](#)
[Application 3, Question 13](#)

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 normal retirement age (see Question 12), and would have done so if not for the compensable injury.

Examples of satisfactory independent evidence include:

- continued employment after normal retirement age at the same level and earnings as pre-retirement age [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]

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Sufficient and satisfactory evidence (continued)

- continued part-time employment post-retirement age, provided that the worker is working a minimum of 50% of the hours used to estimate the worker's earning capacity (work that averages less than 50% of the estimated weekly hours is considered to be a personal choice of semi-retirement)
- confirmation from an independent source that the worker had planned to continue after normal retirement age and employment was available

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

14. *Will WCB adjust the ELP before the normal retirement age if a worker chooses early retirement?*

[Policy 04-04, Part II, Application 3, Question 14](#)

WCB will not apply the retirement adjustment to ELP until the worker reaches normal retirement age, 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 they had continued in the workforce, WCB may review and adjust the worker's ELP, based on the estimated earning capacity (see Questions 6 and 8 in this Application, and Application 1, Question 4).

15. *What happens if a retired worker re-enters the workforce?*

[Policy 04-04, Part II, Application 3, Question 15](#)

Once the worker has retired and the retirement adjustment has been applied, the retirement adjustment is permanent and will not be reversed if the worker returns to the workforce.

If the worker's new employment is in an industry under the *WCA*, any new accident will be adjudicated as a new claim.

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16. *How is the retirement adjustment calculated?*

[Policy 04-04, Part II,](#)
[Application 3, Question 16](#)

To estimate the impact of the disability on the worker's retirement income (due to the reduced opportunity to contribute to retirement plans), WCB will pay an annual retirement benefit in an amount equal to 2% of the worker's total wage loss compensation.*

*Total wage loss compensation is the sum of all wage loss benefits paid from the date of accident up to the month in which the worker reaches retirement age. It includes temporary wage loss benefits as well as ELP/TEL.

The annual retirement benefit will normally be payable in twelve equal monthly payments for the lifetime of the worker but may be commuted to a lump sum if the conditions set out in Application 8, Lump Sum Commutations, are met.

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

[Policy 04-04, Part II,](#)
[Application 3, Question 17](#)

Benefits are not adjusted or terminated at retirement age if the worker has a permanent total disability (see **Part I, 1.0**).

18. *What are the retirement income provisions for workers with ELP/TEL who regain their pre-accident earning capacity before reaching retirement age?*

[Policy 04-04, Part II,](#)
[Application 3, Question 18](#)

When a worker regains their earning capacity before reaching retirement age, resulting in termination of their ELP or TEL,

and

the worker has been in receipt of wage loss compensation payments continuously for a minimum of two years (includes periods of temporary and permanent disability wage loss benefits),

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Retirement income provisions for workers who regain their pre-accident earning capacity before reaching retirement age (continued)

WCB will pay the worker a lump sum retirement benefit in an amount equal to 2% of the worker's total wage loss compensation.*

*Total wage loss compensation is the sum of all wage loss benefits paid from the date of accident up to the month in which the worker's ELP/TEL ends due to the worker's full recovery of pre-accident earning capacity. It includes temporary wage loss benefits as well as ELP/TEL.

The lump sum is paid to compensate the worker for reduced opportunity to contribute to retirement plans during the period of compensable loss of earning capacity. The worker has full control over its use; WCB does not invest or manage the lump sum for the worker.

See also Policy 04-02, Part II, Application 1, Question 14.

19. When is this policy application effective?

This policy application (Application 3 – Economic Loss Payment – Dates of Accident on or after January 1, 2018) is effective **XXX**, and applies to all claims with a date of accident on or after that date, except when noted otherwise in a specific policy section(s).

Previous versions

- [Policy 0404 Part II - April 2018](#)
- [Policy 0404 Part II - January 2018](#)

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