# Policy

A worker may be entitled to temporary partial disability benefits when the clinical evidence substantiates continuing temporary partial disability and the worker has returned to employment or the worker has not returned to employment and fails to co-operate in or be available for health care measures and all aspects of the work reintegration process.

## Purpose

The purpose of this policy is to outline how temporary partial disability benefits are calculated in various situations.

# Guidelines

When a worker returns to modified work at a wage loss due to temporary partial disability, the worker is paid a temporary partial difference benefit (T. P. Diff.) at 90 per cent of the difference between the pre-injury/most recent net average earnings (NAE) and the net amount earned at the modified job. Information about determining pre-injury average earnings and NAE can be found in 18-06-01, Calculating Temporary Total Disability Benefits. Information about most recent earnings can be found in 18-06-04, Most Recent Earnings for Recurrences.

If the worker loses time from the modified job because of

- illness not related to the accident covered in the claim
- personal reasons
- no reason given, or
- statutory holidays or vacation

the time lost is deducted from the total number of days within the pay period and the earnings are pro-rated over the actual days worked.

However, if the lost time is due to

- illness due to the compensable injury, or
- a new compensable accident

the time lost is not deducted from the pay period.

## Statutory maximum and minimum

When both the worker's pre-injury and post-injury gross earnings exceed the maximum average earnings, the worker is not considered to have suffered a work-related loss of earnings.

When only the pre-injury wages exceed the maximum, the temporary partial difference benefits are based on the difference between the maximum and the post-injury earnings.



Application date: This policy applies to all decisions made for entitlement periods on or after January 1, 2018, for accidents between April 1, 1985 and December 31, 1997.

When the pre-injury earnings fall between the minimum gross earnings and the statutory minimum, and the worker returns to work at a wage loss, the payable difference in earnings is calculated at the higher of

- the difference between the minimum and the new NAE, or
- 90 per cent of the difference between the original NAE and the new NAE.

When the pre-injury/most recent earnings and the modified duty wages are below the statutory minimum, the actual difference between the wages is paid.

## Irregular post-injury earnings

When a worker's post-injury earnings are irregular and regular weekly earnings information is unavailable for the calculation and timely payment of benefits, post-injury earnings are determined by the WSIB for a period of entitlement that falls within the reasonable expectations defined by the work reintegration goal or work transition (WT) plan for the worker to achieve an earnings goal.

In situations involving irregular post-injury earnings such as self-employed or commission earnings, a schedule of post-injury earnings reviews is established in conjunction with the WR goal or WT plan. These occur every four weeks and involve an assessment of current and projected earnings.

The WSIB reviews the employment details of the goal or plan such as

- type of employment
- type of remuneration; i.e., commission or business profit
- frequency of remuneration
- expected length of time for earnings goal to be achieved
- part or full time employment
- the amount of time before the worker is expected to achieve full working capacity
- expected period to achieve proficiency in essential tasks of the new job

in order to determine an appropriate benefit amount and period of entitlement.

## Temporary partial helper's difference

Temporary partial helper's difference benefits are paid when a partially disabled worker must hire a helper to assist in the performance of the worker's regular job duties.

The benefit amount is calculated using the same formula as T. P. Diff. benefits, with the helper's rate of pay taking the place of the worker's current rate of pay in the formula.

Temporary partial helper's difference does not apply when a self-employed individual who has optional insurance hires a helper. In such a case, temporary partial percent benefits are paid.



Application date: This policy applies to all decisions made for entitlement periods on or after January 1, 2018, for accidents between April 1, 1985 and December 31, 1997.

## Temporary partial per cent

Temporary partial per cent benefits are paid as a percentage of temporary total disability benefits when the worker remains partially disabled due to the work-related disability, and

- has not returned to employment and fails to co-operate in or be available for health care measures and all aspects of the work reintegration process
- has optional insurance at a specified rate and is unable to resume full pre-injury duties
- returns to modified work with the accident employer at full pay and the employer specifically requests reimbursement for the worker's loss of productivity (on a percentage basis), or
- experiences the same wage loss each week while on modified work.

The percentage paid is determined by the degree of on-going disability and the wage loss, and is referred to as "T.P.__%".

## Self-employed worker

When a worker who was self-employed prior to the accident is clinically unable to do pre-injury duties, but does return to limited duties, the WSIB must obtain

- details of pre-injury job
- details of present work
- aspects of the job that cannot be performed due to the work-related disability, and
- an estimate of the worker's current working abilities, expressed as a percentage (25 per cent, 50 per cent, or 75 per cent).

The WSIB examines this information and the clinical information provided by the treating health professional to determine the percentage of benefits payable.

## Employer requests reimbursement

If an employer is paying wages to a worker with a temporary partial disability and the

- work being performed is worth less than the employer is paying
- loss of productivity is the result of the worker's disability
- employer requests reimbursement for the worker's loss of productivity

the WSIB may use either of the following two approaches to calculate payments to the employer

a) (Pre-injury NAE) X 90 per cent X (estimated productivity loss as a percentage)
b) (Pre-injury NAE - net amount worker able to earn from suitable employment) X 90 per cent

To determine the estimated productivity loss, the WSIB must evaluate the current job relative to the pre-injury job.



Application date: This policy applies to all decisions made for entitlement periods on or after January 1, 2018, for accidents between April 1, 1985 and December 31, 1997.

To determine the estimated post-injury net amount the worker is able to earn in some suitable employment, the WSIB must compare the current job with the salaries of similar positions or estimate how much the employer would have to pay to have the job done.

## Annual indexing

On January 1 every year, the WSIB indexes ongoing temporary partial disability benefits by applying the indexing factor to the amount payable, see 18-01-14, Annual Indexing.

## Application date

This policy applies to all decisions made for entitlement periods on or after January 1, 2018, for accidents from April 1, 1985 to December 31, 1997.

## Document history

This document replaces 18-06-02 dated February 15, 2013.

This document was previously published as:
18-06-02 dated October 12, 2004
05-02-03 dated January 4, 1999.

# References

## Legislative authority

*Workplace Safety and Insurance Act, 1997*, as amended
Section 111

*Workers' Compensation Act, R.S.O. 1990*, as amended
Sections 37, 38, 39, 144, 146, 148, 151

*Workers' Compensation Act, R.S.O. 1980,* as amended
Sections 40, 43, 44

## Minute

Administrative
#15, November 15, 2017, Page 544