

**Operational
Policy**Section
ComplianceSubject
Material Change in Circumstances - Worker

Policy

When there is a material change in circumstances, whether reported on time or not, the WSIB adjusts the person's benefits retroactively to the date of the change. This could result in a benefit-related debt, see 18-01-04, Recovery of Benefit-Related Debts.

NOTE

Throughout this document, person may refer to a worker, surviving spouse, or dependant.

Purpose

The purpose of this policy is to provide guidelines on what constitutes a material change in circumstances for a worker in receipt of WSIB benefits.

Guidelines

Definitions

Material change in circumstances – is any change that affects a person's entitlement to benefits and services under the Act.

If a person fails to inform the WSIB of a material change in circumstances, the WSIB presumes that this is intentional and thus wilful, unless the person can demonstrate having no knowledge of the change. Decision-makers determine whether the person reasonably should have been aware of the change by reviewing the facts of the case.

Types of changes

Changes that persons must report to the WSIB include, but are not limited to,

Health care status, such as

- improvement or a deterioration of the work-related condition
- a need for more or different treatment, or surgery
- stopping treatment
- a need for an assistive or prosthetic device, or to make changes to an existing device.

Earnings/income, such as

- getting a wage increase or decrease
- receiving CPP/QPP disability benefits because of the work-related injury (entirely, or in part)
- increases or decreases in CPP/QPP disability benefits.

NOTE

For specific information about CPP/QPP disability benefits, see 18-01-13, Calculating CPP/QPP Offsets from FEL/LOE Benefits. For specific information about CPP/QPP survivors' benefits, see 20-03-03, Calculating CPP/QPP Offsets from Survivors' Benefits.

Work status, such as

- the alteration of job duties or hours because of the work-related injury
- termination because of the work-related injury
- retirement or otherwise voluntary departure from the workforce.

Availability for, or co-operation in, health care or work reintegration activities, such as

- changing address or leaving the province
- being sentenced to prison or being imprisoned
- having a non-work-related clinical condition that restricts ability to work
- having a work visa expire, or expecting deportation.

Optional insurance coverage, such as

- a change in the earnings used to set the amount of optional insurance coverage, see 12-03-02, Optional Insurance.

A dependant's entitlement to benefits, such as

- a dependant, 19 or older, continuing to attend a recognized educational institution, see 20-03-12, Child 19 Years or Older Continuing in Education
- a child who is no longer an invalid, see 20-03-13, Child Incapable of Earning Wages.

Reporting responsibility

It is the responsibility of each person to contact the WSIB personally as soon as a material change occurs. If possible, persons should notify the WSIB of a change, such as a planned return to work, before it happens. This helps the WSIB avoid creating benefit-related debts. In any case, the person must report the change no later than 10 calendar days (including the date of the change) after the change occurs.

If a person is not sure whether a change is a material change that may affect entitlement, it should be reported so that the WSIB can make a determination.

Persons or their representatives can inform the WSIB of material changes. Persons should not rely on others, such as family members, friends, or their employers, to notify the WSIB.

Expanded Compulsory Coverage in Construction

Persons in the construction industry, who are deemed workers, are subject to the same rights and obligations as described under this policy. See 12-01-06, Expanded Compulsory

Coverage in Construction, for more information on deemed workers carrying on business in construction.

How to report

The WSIB encourages persons to phone the decision-maker responsible for their claim to promptly report material change. However, advising decision-makers by mail, courier, or fax is acceptable as long as the WSIB is notified of the change within 10 calendar days.

Once decision-makers are aware of a material change they may request additional information, such as pay stubs.

If changes occur frequently, the decision-maker may advise the person on how to report these changes. For example, a commission sales person may be asked to report earnings on a monthly basis, rather than with every sale.

What does the decision-maker do with the information?

The decision-maker reviews the material change information to determine if and how entitlement to benefits and services are affected. If the reported change has no effect, it is recorded but no action is taken. For example, if a person reports increased pain but remains at work and no treatment is required, the decision-maker simply records this information on the claim file.

The decision-maker must advise the person if and how the material change affects ongoing entitlement to benefits and services.

When are benefit adjustments effective?

Adjustments to benefits and services resulting from material change are effective from the date the change occurred. If a person does not report a material change within 10 calendar days, the necessary adjustments are more likely to result in a benefit-related debt. For benefit adjustments relating to the receipt of CPP/QPP disability benefits, see 18-01-13, Calculating CPP/QPP Offsets from FEL/LOE Benefits. For benefit adjustments relating to the receipt of CPP/QPP survivors' benefits, see 20-03-03, Calculating CPP/QPP Offsets from Survivors' Benefits.

If a preliminary investigation of the facts suggests a person intentionally failed to notify the WSIB of a material change, the case may be referred to Regulatory Services, see 22-01-05, Offences and Penalties - General.

Which benefits may be affected?

A material change in circumstances may affect

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- temporary disability benefits under s.37 of the pre-1998 *Workers' Compensation Act*, partial or full
- non-economic loss benefits under s.42 of the pre-1998 Act, and under s.46 of the *Workplace Safety and Insurance Act*
- future economic loss benefits under s.43 of the pre-1998 Act, which includes supplements under s.43(9)
- loss of earnings benefits under s.43 of the current Act, partial or full
- temporary supplements under s.147(2) and the additional \$200 payment under s.147(14) of the pre-1998 Act, can be adjusted at any time. However, supplements under s.147(4) can only be adjusted at the 24- or 60-month reviews
- dependants' (survivors') benefits under s.35 of the pre-1998 Act, and s.48 of the current Act.

Exceptions

Recipients of temporary disability, permanent disability, and survivors' benefits paid under the pre-1989 Act are not required to report material changes.

Application date

This policy applies to all persons who, on or after January 1, 2013, are or may be entitled to any of the benefits and services noted above, for all accidents on or after January 2, 1990.

For all s.149 offences that the WSIB is aware of on or after June 29, 1999, there is no time limit to lay charges.

Document History

This document replaces 22-01-02 dated March 3, 2008

This document was previously published as:

22-01-02 dated February 20, 2006

22-01-02 dated June 1, 2005

22-01-02 dated October 12, 2004

11-01-06 dated May 24, 2002.

References**Legislative Authority**

Workplace Safety and Insurance Act, 1997, as amended

Sections 12.2, 12.3(6), 23(3), 43, 44, 46, 48, 149(2), 149(4.2),(5), (7), 158

Workers' Compensation Act, R.S.O, 1990, as amended

Sections 22.1, 35, 37, 42, 43, 44, 147(2), (4), (14), 161(2), 163

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