

Section Title: Board and Corporate Administration - *Legal*
 Subject: Employer Obligation to Pay a Worker for the Day of the Accident
 Effective Date: January 1, 2006

A. GENERAL INFORMATION

Under *The Workers Compensation Act* (the *Act*), an employer must pay a worker his or her regular wages and benefits for the day of an accident as if the accident had not occurred.

An employer may not charge that payment against a worker's sick leave or any other benefit entitlement.

If the employer fails to comply with those responsibilities, the *Act* allows the WCB to pay the worker the amount that should have been paid by the employer, recover that amount from the employer, and charge an administrative penalty to the employer.

This policy describes how the WCB will exercise its authority if the employer fails to comply with the *Act*.

B. POLICY

1. Employers must pay a worker's normal wages and benefits for the full day when a worker suffers a workplace accident and is unable to work during any part of the day of the accident. The payment should be made in the pay period when those wages would normally be paid. If the accident is subsequently determined not to be work-related, the employer may recover the payment from the worker.
2. The responsibility to pay normal wages and benefits applies only to the worker's *accident employer*. *Concurrent employers* are not obliged to pay for earnings lost on the date of an accident with another employer.
3. If a worker reports employer non-compliance, the WCB will request the employer to comply and will advise the employer of the penalty that may be imposed for non-compliance.
4. When the WCB believes that time loss on the day of the accident was caused by the accident, and the employer has not complied with the *Act*, the WCB may exercise its authority and impose an administrative penalty in accordance with the *Act* and accompanying Regulation, *unless* the employer agrees to pay the worker as required.
5. Any administrative penalty will be waived if the WCB is satisfied that the time loss on the day of the accident was not caused by the accident, or if it believes that there are reasonable circumstances to justify waiving the penalty.
6. The WCB may exercise its authority to pay the worker if the employer refuses to pay the worker, or in other exceptional circumstances (e.g. the employer is bankrupt or out of business and is, unable to fulfil its obligation to pay the worker).
7. The WCB will pay the worker when: (i) the accident is determined to be compensable; (ii) the WCB determines that the worker was unable to work on the day of the accident subsequent to the injury; (iii) all reasonable attempts to convince the employer to pay the worker have been unsuccessful, and (iv) the employer continues to refuse to pay the worker.

C. REFERENCES

The Workers Compensation Act, sections 4(1.1), 4(1.2), 4(1.3), 109.7(1), 109.7(3) and 109.7(4)

History:

1. Policy established by Board Order 30/05 on September 29, 2005, effective January 1, 2006.
2. Minor formatting and grammatical changes were made to the policy and the effective date was clarified, June 27, 2012.
3. Administrative guidelines were outdated and removed from the policy on February 25, 2020.
4. Minor formatting changes were made to the policy, October 2020.