

Section	Policy
30	35.10.70

Section Title: Finance, Assessments and Administration - *Assessments*
Subject: Coverage for Volunteers
Effective Date: For accidents on or after January 1, 2023

A. POLICY PURPOSE

Individuals who volunteer at a non-profit or charitable organization are exposed to the hazards of the industry and face the risk of injury. *The Workers Compensation Act* (the Act) provides that non-profit or charitable organizations may voluntarily purchase workers compensation coverage for these volunteers.

WCB coverage provides immunity from lawsuit for covered workers and employers. Volunteers may fall into this category. The availability of WCB coverage will limit liability issues for volunteer organizations.

Individuals who volunteer are not paid a wage for the work performed. However, many will have earnings from other paid employment that may be interrupted if an injury is sustained. Some volunteers will have no earnings, but may experience a loss of probable earning capacity as a result of the injury.

This policy provides direction on determining average earnings for a volunteer including their probable loss of earning capacity. The policy also defines who is a volunteer, what is a non-profit or charitable organization, and how assessments are calculated.

B. POLICY

1. Definition of a Volunteer

A volunteer is a person who undertakes community service work of his/her own free will and neither receives nor expects to receive any kind of pay or compensation for his/her services other than reimbursement of expenses.

2. Definition of a Non-Profit and Charitable Organization

a. Non-Profit Organization

An organization is considered to be non-profit if it is organized and operated for a purpose other than making a profit and directs its resources to furthering its objectives. Activities conducted by the organization are primarily for the benefit of the public or an identified segment of the public. The non-profit organization is composed of members and it cannot use its income to benefit its members. A non-profit organization may but will not necessarily be registered with the Canada Revenue Agency. A non-profit organization is not entitled to issue tax receipts for donations or membership fees.

b. Charitable Organization

A charitable organization is an organization that is registered as a charity under the *Income Tax Act* and recognized by the Canada Revenue Agency. The organization may or may not be incorporated. All of its resources must be devoted to charitable activities, and no part of the income may be used for the personal benefit of any proprietor, member, shareholder or trustee. A charity can issue charitable donation receipts for tax purposes.

3. Requests for Coverage

The WCB will evaluate all requests from non-profit or charitable organizations for coverage. Coverage will be declined in the following circumstances:

- The worker does not meet the definition of a volunteer.
- The employer does not meet the definition of a non-profit or charitable organization.
- The non-profit or charitable organization is not covered by the WCB.
- If there are any other reasons that the WCB considers coverage to be inappropriate.

4. Accidents Outside the Province

When the volunteer has qualified as a worker and an injury occurs while volunteering in another province or outside Canada, entitlement to compensation will be determined under the Act.

5. Average Earnings

Average earnings of a volunteer are the greater of actual earnings or an amount determined by the WCB as fairly representing the probable earning capacity of the worker which must not exceed the industrial average wage (IAW) as described in subsection 75.1(3) of the Act. The calculation of average earnings for a volunteer is dependent on the employment status of the individual. The average earnings will be calculated in accordance with Policy 44.80.10.10, *Average Earnings*.

a. Volunteer with Concurrent Earnings

Average earnings will include earnings from all the occupations in which the worker was employed at the time of the injury. However, income from concurrent employment is only included in average earnings when the worker's ability to earn that income is affected by the compensable injury.

b. Volunteer Receiving Retirement Income

If the volunteer has no employment or benefit income, and is receiving retirement income, average earnings will be based on the probable earning capacity of the volunteer which is zero.

c. Volunteer Receiving Employment Income (EI) or Employment and Income Assistance (EIA)

i. Establishing the Initial Benefit Rate

- Initial benefits will be based on the actual benefits received from either EI or EIA.

ii. Establishing the Benefit Rate Effective Week 13

- If the effects of the compensable injury persist beyond 12 weeks, the WCB will perform an Earning Capacity Assessment (ECA) to determine a worker's probable loss of earning capacity. The assessment will take into account such factors as the worker's education, work history, age, skills, and any known barriers to employment. The determination of a worker's probable earning capacity will be based on objective data that reflects the reality of the labour market.

If it is determined that the worker would likely have returned to the workforce within 13 weeks but was unable due to the compensable injury, occupations will be identified that the worker could have performed utilizing his or her skill set. Benefit rates will

be adjusted effective the beginning of week 13, and will be based on the usual remuneration for a beginner of the identified occupation and cannot exceed IAW. If it is determined that the worker would not have returned to the workforce within 13 weeks, the claim will be reviewed periodically and benefit rates will be adjusted only if there is an indication that the probable earning capacity has changed.

d. Volunteer that has no Employment, Retirement, or Benefit Income (Pure Volunteer)

i. Establishing the Initial Benefit Rate

- o Initial benefits will be based on actual earnings which are zero.

ii. Establishing the Benefit Rate Effective Week 13

- o If the effects of the compensable injury persist beyond 12 weeks, the WCB will perform an Earning Capacity Assessment (ECA) to determine a worker's probable loss of earning capacity. The assessment will take into account such factors as the worker's education, work history, age, skills, and any known barriers to employment. The determination of a worker's probable earning capacity will be based on objective data that reflects the reality of the labour market.

If it is determined that the worker would likely have returned to the workforce within 13 weeks but was unable due to the compensable injury, occupations will be identified that the worker could have performed utilizing his/her skill set. Benefit rates will be adjusted effective the beginning of week 13, and will be based on the usual remuneration for a beginner of the identified occupation and cannot exceed IAW. If it is determined that the worker would not have returned to the workforce within 13 weeks, the claim will be reviewed periodically and benefit rates will be adjusted only if there is an indication that the probable earning capacity has changed.

e. Dual Status

The Act and other WCB policies provide for specific adjustments to average earnings in some circumstances (e.g. youthful workers, working students). In some cases, a worker may be eligible for more than one type of average earnings adjustment. When this occurs, the WCB applies the adjustment provisions to the worker's average earnings that best reflect the worker's characteristics and circumstances.

6. Deemed Period of Employment

The volunteer is deemed to be a worker when he/she is exposed to the hazards associated with the volunteer activity.

7. Assessments

Assessments can be applied on a flat rate per volunteer or per full-time equivalent volunteer. Payment for assessments is made by the individual non-profit or charitable organization that received coverage.

C. REFERENCES

The Workers Compensation Act, sections 1(1), 2(c), 39.2(2)(b), 47(1), 75.1(1)-75.1(4)

Related WCB Policies:

WCB Policy 44.80.10.10, *Average Earnings*

WCB Policy 44.80.30.30, *Determining Average Earnings for Apprentices, Youthful Workers and Working Students*

History:

1. Policy established by Board Order 48/05 on November 30, 2005, effective January 1, 2006. No prior policy.
2. Minor formatting and wording changes were made to the policy and departmental titles were updated, June 27, 2012.
3. Policy updated November 10, 2017 to reflect consequential amendments to Section 5 (Average Earnings) and Section 7 (Assessments) arising out of transition to the new rate setting model.
4. Minor formatting changes made to the policy January 2021.
5. Policy amended by Board Order No. 15/22 on June 21, 2022, effective for accidents on or after January 1, 2023. Consequential changes made to the policy include clarifying that the WCB applies the specific adjustment provisions to the worker's average earnings that best reflect their characteristics and circumstances when the worker is eligible for more than one adjustment to their average earnings; and referencing the new title of the amended policy 44.80.30.30, *Prospective Earnings - Apprentices and Youthful Workers*, which is now the *Determining Average Earnings for Apprentices, Youthful Workers and Working Students Policy*. Current policy 35.10.70, *Coverage for Volunteers*, will be archived and applies to accidents from January 1, 2006 to December 31, 2022 and any reconsiderations and appeals on these claims.