

Section	Policy
30	36.70

Section Title: Finance, Assessments and Administration - Payments
Subject: Assignment of Wage Loss Benefits
Effective Date: For all decisions occurring on or after January 1, 2022

A. POLICY PURPOSE

The Workers Compensation Act (the Act) permits the Workers Compensation Board (WCB) to pay an injured worker's wage loss benefits to another person or agency in certain situations.

This policy describes those circumstances and the WCB's practice when making an assignment.

B. POLICY

Assignment of benefits occurs when, instead of paying those benefits directly to the injured worker, the WCB pays the benefits to a third party.

When a worker experiences a workplace accident, they may be eligible for benefits to replace lost income (wage loss benefits) from several different sources. They may receive Employment Insurance sickness benefits, for example, or benefits from a private insurer.

Assignment may occur when a third party has paid the worker wage loss benefits while the WCB determines whether to accept the worker's claim for the same accident. If the WCB accepts the worker's claim, the third party will be reimbursed for the benefits the third party paid to the worker while the WCB decision was pending. The assignment process allows the WCB to reimburse the third party directly by redirecting the wage loss benefit payment from the worker to the third party.

Without this reimbursement, the worker would receive wage loss benefits from the WCB and the third party for the same injury during the same time period. This would be an overpayment, and contrary to the Act.

Some federal and provincial legislation requires an assignment of wage loss benefits in these circumstances. The WCB may also assign wage loss benefits to a disability insurer, or other third party.

Written consent of the worker and written approval of the board will be required before assignments to disability insurance providers or other third parties can occur.

In all cases where the WCB assigns compensation to another person or agency, the worker shall be notified before the benefits are assigned.

I. Overpayment of Employment Insurance Sickness Benefits

The federal *Employment Insurance Act* requires that a person's employment insurance benefits, payable as a result of injury, illness or quarantine, be reduced by any amounts payable under provincial law.

A worker may receive employment insurance (EI) sickness benefits from Employment and Social Development Canada (ESDC) in relation to their workplace injury while awaiting a decision from the WCB. If the WCB ultimately accepts the worker's claim, the WCB will reimburse the Government of Canada on behalf of the worker for the overpayment of EI sickness benefits when it receives a Notice of Debt from ESDC.

II. Overpayment of Assistance Under *The Manitoba Assistance Act*

The *Assistance Regulation*, made under *The Manitoba Assistance Act*, also requires assignment in some circumstances. An individual's failure to assign wage loss benefits may result in denial, suspension or discontinuance of assistance under *The Manitoba Assistance Act*.

A worker may receive assistance under *The Manitoba Assistance Act* while awaiting a decision from the WCB. If the WCB ultimately accepts the worker's claim, the WCB will reimburse the Government of Manitoba on behalf of the worker for the overpayment of assistance under *The Manitoba Assistance Act* when it receives a written request from the provincial Department of Families.

III. Disability Insurance Providers and Other Third Parties

A worker may receive disability benefits from an employer or personal disability insurance provider for their workplace injury while awaiting a decision from the WCB. If the WCB ultimately accepts the worker's claim, the WCB may reimburse the provider on behalf of the worker for the overpayment of disability benefits. Prior to any assignment of benefits, written consent from the worker and written approval of the board are required.

The WCB may consider assignment of compensation in other circumstances where the worker has received a benefit or payment from other third parties as a result of their workplace injury, while the WCB's decision on claim acceptance is pending. Decisions will be made on a case by case basis. Prior to any assignment of benefits, written consent from the worker and written approval of the board is required.

C. REFERENCES

The Workers Compensation Act, subsection 23(3)

Employment Insurance Act, subsections 21(2), 126(4), and 153.03(2)

The Manitoba Assistance Act, clause 19(1)(g), *Assistance Regulation*, section 12.1

History:

1. New policy approved by Board Order No. 36/20 on December 17, 2020 effective for all decisions occurring on or after January 1, 2022