Section Title: Benefits Administration – Other Entitlements
Subject: Annuities
Effective Date: Applies to accidents on or after January 1, 1992

A. GENERAL INFORMATION

The Workers Compensation Act (the Act) provides that certain benefits may be paid as an annuity. These include:

a) **fatality lump sum** - the lump sum payable to a spouse or common-law partner of a deceased worker under sub-clause 29(1)(a)(i);

b) **impairment lump sum** - the lump sum payable to a worker as an impairment award under section 38, which is greater than the minimum amount established by the WCB under subsection 38(5);

c) **retirement amount** - the amount accumulated to provide a retirement annuity for a worker under subsections 42(2) and (3) together with accrued interest which is equal to or greater than the minimum amount established by the WCB under subsection 42(7); and

d) **spousal or common-law partner retirement lump sum** - the lump-sum amount payable under clause 42(8)(a) to the spouse or common-law partner of a worker who dies before electing an annuity type, which is greater than the minimum amount established by the WCB under subsection 42(9).

Under subsections 38(5) and 42(9), a worker or a surviving spouse or common-law partner has the option to convert a lump-sum benefit to an annuity when this benefit level is greater than a minimum amount established by the WCB. Under subsection 42(7), the WCB may establish an amount below which the accumulated retirement benefit may be paid as a lump sum.

Subsection 36(3) of the *Act* provides that a person eligible to receive an annuity may obtain independent financial advice from a person approved by the WCB, with the fee or portion of the fee payable by the WCB.

Subsection 42(10) provides guidance on the division of the retirement amount on the breakdown of a relationship.

B. POLICY PURPOSE

This policy establishes:

1. the minimum amount under subsections 38(5) and 42(9), above which a lump sum may be converted to an annuity;
2. the minimum amount under subsection 42(7), below which an accumulated retirement benefit will be paid as a lump sum;
3. the interest rate at which retirement annuity contributions will earn interest;

4. the method of annually reporting the accumulated value of a retirement annuity;
5. the minimum amount required to be eligible for independent financial advice under subsection 36(3);
6. the maximum fee payable for financial advice under subsection 36(3); and
7. criteria for selecting persons who may provide independent financial advice.

C. POLICY

1. ANNUITY ELIGIBILITY

a) Fatality Lump Sum - In all cases, a surviving spouse or common-law partner may elect to convert a fatality lump sum payable to an annuity.

b) Impairment Lump Sum - The worker may have the option to convert the impairment lump sum award to an annuity if the award is greater than the amount determined by the WCB (see Table "A") in the year that the benefit becomes payable.

When the impairment lump sum award is less than or equal to this minimum amount, the worker will receive a lump-sum payment.

c) Retirement Amount –The worker may choose one of the annuity types provided under subsection 36(2) if the retirement amount is equal to or greater than the amount determined by the WCB (see Table "A") in the year that the benefit becomes payable.

When the retirement amount is less than this minimum amount, the worker will receive a lump-sum payment.

d) Spousal or Common-law Partner Retirement Lump Sum – The surviving spouse or common-law partner may elect to convert a retirement lump sum to an annuity if the amount is greater than the amount determined by the WCB (see Table "A") in the year that the benefit becomes payable.

When this retirement amount is less than or equal to this minimum amount, the surviving spouse or common-law partner will receive a lump-sum payment.

e) When a worker or surviving spouse or common-law partner is eligible for an annuity, the monthly payment for each type of annuity listed under subsection 36(2) will be provided to assist the claimant in choosing one of the annuity types or, when available, the lump-sum amount. If the claimant does not select an annuity type within 45 calendar days from the date he or she was notified in writing by the WCB of his or her eligibility, the WCB will contact the claimant. After consultation with the claimant (and in the absence of a choice of a type of annuity), this benefit amount may be paid out as a lump-sum payment.

f) The monthly payment will be calculated based on interest rates and mortality assumptions outlined in Policy 44.100, *Interest Rates*.

2. RETIREMENT ANNUITIES

a) Amounts set aside by the WCB and any additional contributions made by the worker will accumulate in a retirement annuity account for each eligible worker.

b) At the end of each year, the WCB will apply interest to each worker's retirement annuity account. Starting in 2004, the interest rate is based on the investment income rate of return as defined in Appendix A.

c) When the investment income rate of return is negative, the WCB will use a rate of return of zero percent for the purposes of this policy.

d) From 1994 to 2003, the WCB will apply interest to each worker's retirement annuity account based on the average "book return on market value of investments" as subsequently published in the WCB's Annual Report for that year.

e) In the year in which the worker retires or dies, the WCB will apply the immediately-preceding year's interest rate to determine the final balance of the retirement annuity account.

f) When the retirement annuity is unclaimed, the WCB will continue to apply interest until the retirement annuity is paid to a claimant or into the Accident Fund.

g) Each worker will receive an annual statement showing the accumulated retirement amount held by the WCB. The statement will conform to the reporting requirements in *The Pension Benefits Act* and Regulations, when applicable.

h) In general, the retirement amount will become payable, either as an annuity or a lump sum payment, at the earlier of:

   (i) age 65; or

   (ii) when the WCB has determined that the worker has retired from the workforce, but not before age 55.

i) If the accident happened on or after January 1, 2006 and the worker is 61 years or older at the date of the accident, the retirement amount will become payable, either as an annuity or a lump sum payment, at the earlier of:

   (i) Four years after the date of the accident; or

   (ii) When the WCB has determined that the worker has retired from the workforce.

   Regardless of the worker's age, the WCB will use the set of principles outlined in policy 44.60.20, *Date of Retirement*, to determine whether the worker has retired from the workforce.

j) Regardless of the accident date, when a worker dies before reaching retirement or before choosing an annuity type, the WCB will pay to the worker's surviving spouse or common-law partner a lump sum payment equivalent to the full value of the retirement annuity account.

   If this lump-sum payment is greater than the minimum amount established by the WCB under subsection 42(9) and set out in this policy, the spouse or common-law partner may select among the annuity types listed under subsection 36(2).

   When a worker dies before reaching retirement or before choosing an annuity type, and is <u>not</u> survived by a spouse or a common-law partner, the WCB will pay the estate of the worker a lump-sum equivalent to:

   (i) the accumulated amount of any voluntary contributions made by the worker under subsection 42(3) plus accumulated interest; and

(ii) a percentage of the accumulated amount of contributions made by the WCB under subsection 42(3) plus accumulated interest.

Where the accident occurred on or after January 1, 2006, the worker's estate receives 100% of the value of the accumulated contributions and interest set aside by the WCB.

Where the accident occurred on or after January 1, 1992 but before January 1, 2006, the worker's estate receives 50% of the value of the accumulated contributions and interest set aside by the WCB.

3. UNCLAIMED ANNUITIES

a) Any unclaimed annuities of a worker injured while in the employ of a self-insured employer will be disposed in the following manner:

   i. The WCB's contributions towards a retirement annuity plus interest earned on these contributions will be credited to the self-insurer.

   ii. The worker's contributions towards a retirement annuity plus interest earned on these contributions will be paid into the accident fund.

b) All other unclaimed annuities will be paid into the Accident Fund.

4. APPORTIONMENT OF COMPENSATION

a) If more than one person is entitled to compensation as a spouse or common-law partner, compensation is apportioned between the spouses and common-law partners. The WCB apportions benefits and services using the criteria set out in subsection 30(3) of the *Act*.

b) In the event that more than one person qualifies for independent financial advice, the WCB will pay up to an amount set in Table A for this advice on each person's behalf. Eligibility for and the payment of independent financial advice is discussed in the next section.

5. INDEPENDENT FINANCIAL ADVICE

a) In all cases, a surviving spouse or common law partner receiving a fatality lump sum may obtain independent financial advice. The WCB will pay up to an amount set out in Table A for this advice where the financial advisor meets the criteria set out in this policy.

b) Claimants eligible to receive an impairment lump sum, a retirement amount or a spousal or common-law partner retirement lump sum may obtain independent financial advice if the compensation payable is greater than the amount determined by the WCB (see Table A) in the year that the benefit becomes payable. The WCB will pay up to an amount set out in Table A for this advice where the financial advisor meets the criteria set out in this policy.

c) The option to obtain independent financial advice is solely for the purpose of assisting eligible claimants in making an informed choice among their options under the *Act*. It is not meant to provide extensive long-term investment counselling or other tax or estate planning. The cost of any additional financial advice other than for the above purpose or other expenses in obtaining the above financial advice, such as travel costs, will be at the expense of the claimant.

d) A person with a professional accounting or certified financial planning designation or a financial advisor with a minimum experience of five (5) years dealing with annuities may provide independent financial advice on the annuity election decision at WCB expense. The designation or experience of the financial advisor must be indicated on the invoice submitted to the WCB.

e) The WCB will periodically review the maximum fee payable for independent financial advice set out in this policy and policy 44.100.10, *Lump-Sum Commutations*. The fee may be adjusted to reflect current market rates.

D. REFERENCES

The Workers Compensation Act, sections 29(12), 36, 38(1) to 38(3), 38(5), 42 **[On or After January 1, 1992]**

*The Pension Benefits Act, s*ubsections 31(2) to (4)

Manitoba Regulation 39/2010, *Pension Benefits Regulation*, Part 11

WCB Policy 44.60.20, *Date of Retirement*
WCB Policy 44.100, *Interest Rates*
WCB Policy 44.100.10, Lump-Sum Commutations

History:

1. Policy 44.100.20, *Annuities*, established by Board Order 23/92 on May 20, 1992, effective retroactive to January 1, 1992.
2. Policy amended by Board Order 05/96, on February 29, 1996, to cease effect on December 31, 1994. Re-issued to policy manual as 44.100.20.01.
3. Policy 44.100.20 approved by Board Order 05/96 on February 29, 1996, effective January 1, 1995 to incorporate retirement annuities.
4. Policy amended by Board Order 12/02 to update the name of policy 44.100 from Interest and Mortality Rates to Interest Rates. The administrative guidelines have also been deleted.
5. Policy amended by Board Order 03/05, on January 27, 2005, to rescind Board Order 05/96 effective on January 1, 2005. The rescinded policy will continue to apply to initial decisions made from January 1, 1995, to December 31, 2004, and any reconsiderations and appeals that derive from these decisions. Re-issued to policy manual as 44.100.20.01.
6. Policy 44.100.20 approved by Board Order 03/05, on January 27, 2005, effective January 1, 2005.
7. Policy 44.100.20 approved by Board Order 17/05 on May 26, 2005. The revised policy is effective January 1, 2006. Revisions to the policy include: determining when the retirement benefit should be paid to older workers and updating the threshold levels to reflect the impairment benefit structure. Former policy re-issued to Policy Manual as 44.100.20.01.
8. Minor formatting and grammatical changes were made to the policy June 27, 2012.
9. Policy 44.100.20, *Annuities*, was amended by Board Order 41/2015 on October 29, 2015 effective January 1, 2016. Policies 44.100.20, 44.100.20.01 and 44.100.20.02 were consolidated into one policy. Former Policies 44.100.01 and 44.100.20.02 were rescinded effective January 1, 2016. Other policy revisions include increasing the maximum fee for independent financial advice and providing a lump-sum payout to a worker's former spouse or common-law partner when the WCB receives a separation agreement or court order dividing family assets.

10. Policy amended by Board Order 26/2016 on September 29, 2016. Policy revision synchronized adjustments to the maximum fee payable for independent financial advice set out in this policy and policy 44.100.10, Lump-Sum Commutations.
11. In May 2020, Table A – Minimum and Maximum Amounts was revised to show the relevant 5 year history. In addition, the history section was reduced by removing the entries related to table updates. Minor formatting changes were also made.
12. The policy was revised to reflect amendments to *The Pension Benefits Act* and Regulations which took effect on October 1, 2021 regarding the division of pension assets after a relationship breakdown. References to *The Pension Benefits Act* and Manitoba Regulation 39/2010, *Pension Benefits Regulation,* were also updated on December 2, 2021.

E. POLICY APPLICATION

TABLE "A"

MINIMUM AND MAXIMUM AMOUNTS	2025	2024	2023	2022	2021
Sec 38(5) – Amount above which the **impairment lump sum** award may be converted to an annuity	$20,900	$20,100	$19,200	$18,800	$18,100
Sec 42(7) - Amount below which the **retirement amount** will be paid as a lump sum; Or Sec 42(9) - Amount above which the **spousal or common-law partner retirement lump sum** award may be converted to an annuity	$20,900	$20,100	$19,200	$18,800	$18,100
Sec 36(3) - Amount above which claimant qualifies for financial advice	$52,250	$50,250	$48,000	$47,000	$45,250
Sec 36(3) Maximum fee payable for financial advice	$625	$625	$625	$625	$625

The minimum and maximum amounts are recalculated annually and the amounts apply as of January 1.

Table A displays amounts over a five-year period. A historical summary of minimum and maximum amounts can be obtained by contacting: policy@wcb.mb.ca.

Explanatory Notes

The minimum threshold amounts referenced in subsections 38(5), 42(7) and 42(9) of the *Act* are calculated in the following manner. These thresholds determine the method of payment – lump sum payout or annuity.

For benefits payable on or after January 1, 2006, the minimum amounts referenced in subsections 38(5), 42(7) and 42(9) are equal to 10 times the value of one full percentage of impairment under clause 38(2)(b) of the *Act*, as indexed annually.

For benefits payable on or after January 1, 1992 and before January 1, 2006, the minimum amounts referenced in subsections 38(5), 42(7) and 42(9) are equal to 10 times the value of one full percentage of impairment under clause 38(2)(c) of the *Act* as it existed on January 1, 1992, as indexed annually.

The minimum financial advice threshold amount referenced in subsection 36(3) of the *Act* is calculated in the following manner.

For benefits payable on or after January 1, 2006, the financial advice threshold level is 25 times the value of one full percentage of impairment under clause 38(2)(b) of the *Act*, as indexed annually. For benefits payable on or after January 1, 1992 and before January 1, 2006, the financial advice threshold is 25 times the value of one full percentage of impairment under clause 38(2)(c) of the *Act* as it existed on January 1, 1992, as indexed annually

Appendix A - Definition of Investment Income Rate of Return

In 2005 and later, the "investment income rate of return" is calculated using the following formula: investment income per the WCB Statement of Operations divided by the time-weighted balance of the WCB investment portfolio. The time-weighted balance of the WCB investment portfolio is based on the opening balance of the portfolio plus/minus the time-weighted value of additions to or withdrawals from the portfolio.

For 2004, the "investment income rate of return" is calculated using the following formula: the sum of investment income per the WCB Statement of Operations plus a one-time adjustment divided by the time-weighted balance of the WCB investment portfolio. The adjustment represents the amount the WCB allocated to its Accident Fund on January 1, 2004, to account for the transition to the new accounting method for fair value measurement of the investment portfolio. The time-weighted balance of the WCB investment portfolio is based on the opening balance of the portfolio plus/minus the time weighted value of additions to or withdrawals from the portfolio.