

Section	Policy
40	44.60.30

Section Title: Benefits Administration - *Wage Loss*  
Subject: Special Additional Compensation  
Effective Date: At the first review conducted on or after January 1, 2001. Changes are effective from the date of review.

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## **A. POLICY PURPOSE**

When the monthly pension paid to a worker for the physical loss (permanent impairment) resulting from an accident does not adequately compensate the worker for the loss of earning capacity caused by the injury, the WCB may also pay *Special Additional Compensation (SAC)*.

This policy describes when SAC will be paid, for how long, and in what amount. It only applies to accidents that occurred before January 1, 1992.

## **B. POLICY**

### **1. Definition**

Maximal Earning Capacity Date is the later of:

- (i) the date the worker has completed any vocational rehabilitation training provided (including any training on the job, apprenticeship training provided by the employer, and job search) and will be offered no significant additional employment-related services, and
- (ii) the date the injury has stabilized to the point where a permanent partial disability award has been established.

### **2. Entitlement**

Special Additional Compensation (SAC) will be provided under the following circumstances:

- a) The worker is given a permanent partial disability (impairment) award under section 40(1) or a "Functional Impairment Award" under WCB policy 43.10.30, *Functional Impairment Awards*. The permanent partial disability award must be established after December 31, 1966, for this policy to apply.
- b) The worker has a loss of earning capacity that is greater than the amount of the permanent partial disability award.
- c) The worker makes a fair and honest effort at vocational rehabilitation.
- d) Vocational rehabilitation assistance was provided but has not produced an earning capacity that is reasonably equivalent to the pre-accident earning capacity; and,
- e) The worker is not retired when SAC is considered.

### **3. Duration of Entitlement**

When the worker continues to meet the entitlement criteria, SAC will continue until the worker's anticipated retirement date as defined in WCB policies 44.60.20, *Date of Retirement* and 44.60.20.01, *Date of Retirement*.

#### 4. The Amount of SAC benefit

The SAC benefit will be calculated by:

- First, determining the worker's pre-accident earnings. The determination of the pre-accident earnings will be consistent with WCB policy 44.80.10.10, *Average Earnings*.
- Then deducting the worker's post-accident earning capacity to establish the loss of earning capacity. The determination of the loss of earning capacity will be consistent with WCB policies 44.80.30.10, *Establishing Post-Accident Earning Capacity*, 44.80.30.20, *Post-Accident Earnings - Deemed Earning Capacity* and 44.80.80.10, *Wage Loss Benefits - Temporary Partial Disability*.
- Then multiplying the loss of earning capacity by 75% to establish the worker's entitlement. When the worker's pre-accident earnings are above the maximum covered earnings, the worker's entitlement will be derived using the formula set out in subsection 44(2) of *The Workers Compensation Act* (the Act) as it existed prior to January 1, 1992.
- Then, deducting the current pension value of the permanent partial disability award that the worker received as a result of the same injury for which SAC is being awarded, regardless of whether it has been commuted, unless the pension was commuted prior to January 1, 1992. Then, the value of the pension at the time of the commutation will be used.

An example of how SAC might be calculated is presented in Schedule "A".

#### 5. Reviews of the SAC Benefit

Under the Act, the SAC benefit is indexed in July of every second year. Annual reviews are generally completed on the anniversary date of the establishment of the SAC rather than the indexing date. Reviews for workers receiving SAC will be consistent with the purpose and principles of WCB policy 44.80.80.20, *Loss of Earning Capacity Reviews*. When the WCB believes that the worker's situation is stable and will remain stable in the future, the WCB may decide not to conduct further annual reviews.

#### 6. SAC Benefits after retirement

When a worker belongs to a registered retirement pension plan as defined in *The Pension Benefits Act* or applicable federal pension legislation at the time of the accident; **and**, the worker's entitlement to that pension has been negatively affected by the accident that prompted the payment of SAC, the WCB will provide benefits after the worker's retirement date.

These additional benefits will be based on 2% of the monthly SAC being paid at the time of the retirement date. This amount will be multiplied by the number of years between the time that the WCB determines that the worker has reached maximal earning capacity and the time that the worker retired. This additional benefit will be paid for the life of the worker.

#### C. REFERENCES

*The Workers Compensation Act*, sections 24(1) 27(20), 40(1), 40(2), 44(1), 44(2), 45, and 46 (Prior to January 1, 1992)

*The Workers Compensation Act*, sections 48(6) 49(1) and 49(2) (On or after January 1, 1992)

#### Related WCB Policies:

43.10.30, *Functional Impairment Awards*

44.60.20, *Date of Retirement*

44.60.20.01, *Date of Retirement*

44.80.10.10, *Average Earnings*

44.80.30.10, *Establishing Post-Accident Earning Capacity*

44.80.30.20, *Post-Accident Earnings – Deemed Earning Capacity*

44.80.80.10, *Wage Loss Benefits – Temporary Partial Disability*

44.80.80.20, *Loss of Earning Capacity Reviews*

### **History:**

1. Policy entitled "Section 32(1.1) - Augmenting Pensions" approved by Board of Commissioners on November 5, 1970.
2. Policy replaced by Board Order No. 54/84 "Section 32(1.1) of the Workers Compensation Act" (interim policy) on April 18, 1984.
3. Policy rescinded by Board Order No. 28/85 "Augmentation Awards - Section 32(1.1) of the Workers Compensation Act" for cases considered after January 1, 1985.
4. Clarification of policy by Board of Commissioners May 31, 1985.
5. Policy rescinded by Board Order No. 48/86 "Augmentation Awards - Section 32(1.1) on March 5, 1986, effective January 1, 1985.
6. Policy amended by Board Order No. 156/89 "Special Additional Compensation to Old Age Security Beneficiaries" on and effective November 20, 1989.
7. Policy rewritten and issued as Policy 44.60.30, *Special Additional Compensation* in July, 1992.
8. Policy amended by Board Order 49/94, effective October 1, 1994. Board Order No. 48/86, as amended by Board Order 156/89, rescinded.
9. Administrative guidelines expanded in April 1996 to confirm when a retirement pension should be included in determining the amount of Special Additional Compensation.
10. Policy amended by Board Order 15/00 on May 30, 2000, effective on or after January 1, 2001, for reviews of the SAC benefits conducted on or after this date. Amendments included deleting definition of post-accident earnings and retirement, referencing appropriate policies, and clarifying calculation of the 2% retirement pension. Former policy re-issued as 44.60.30.01.
11. Policy amended by Board Order 18/02 on June 28, 2002, to retroactively re-incorporate provision to deduct pension value at date of commutation from SAC payment where pension was commuted prior to January 1, 1992. Also to clarify that "retirement pension" means any registered retirement pension defined in *The Pension Benefits Act* or applicable federal pension legislation and that 2% retirement pension is payable for life.
12. Minor formatting and grammatical changes were made to the policy June 27, 2012.
13. The reference section was updated to include Policy 44.60.20.01, July 3, 2018.
14. Minor formatting changes were made to the policy, July 2021.

## **D. ADMINISTRATIVE GUIDELINES**

### **Retirement Pensions**

A "registered retirement pension plan" as defined in *The Pension Benefits Act* or applicable federal pension legislation includes a retirement pension provided through the worker's employer or union. It does not include a CPP retirement pension or a RRSP pension (paid for by the worker for him or herself).

**SCHEDULE "A" SAMPLE CALCULATION OF SAC**

<b>Description</b>	<b>Example</b>
<p><b>Step 1:</b></p> <p>Average earnings determined at time of initial SAC calculation</p>	<p>Joan Smith's pre-accident job pays \$10.00/hour at 40 hours per week</p> <p><math>\\$400 \times 4.333 = \\$1,733.20</math> per month</p>
<p><b>Step 2:</b></p> <p>Average earnings are reduced by post-accident earnings (e.g., actual income) to determine the "loss of earning capacity"</p>	<p>Joan Smith's post-accident job pays \$8.00/hour at 40 hours per week</p> <p><math>\\$320 \times 4.333 = \\$1,386.56</math> per month</p> <p><math>\\$1,733.20 - \\$1,386.56 = \\$346.64</math> per month</p>
<p><b>Step 3:</b></p> <p>The loss of earning capacity is multiplied by 75% to get the benefit before PPD</p>	<p>Joan Smith's loss of earning capacity is \$346.64 per month</p> <p><math>\\$346.64 \times 75\% = \\$259.98</math> per month</p>
<p><b>Step 4:</b></p> <p>The amount arrived at in step 3 is reduced by the amount of the permanent partial disability award (PPD) and the result is the SAC payment</p>	<p>Joan Smith's PPD is \$50 per month</p> <p><math>\\$259.98 - \\$50 = \\$209.98</math> per month</p> <p>\$209.98 is the monthly SAC payment</p>

Note: This example calculation does not require consideration of the maximum/minimum insurable earnings. Application of the maximum/minimum may be required in some cases.